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FEDERAL REGISTER

MONDAY, OCTOBER 3, 1977

highlights

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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Table of Effective Dates and Time Periods—October 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. All January dates are in 1978.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency

Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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Lost and stolen securities; reporting and recordkeeping requirements. 41022; 8–12–77

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS

presidential documents

[3195–01]

Title 3—The President

PROCLAMATION 4528

White Cane Safety Day, 1977

By the President of the United States of America

A Proclamation

The white cane, an ingeniously simple device in an age of complex technology, helps assure that those with impaired or lost vision can lead rich and useful lives.

Remarkable progress in public attitudes toward blindness has been made in recent years. It is now widely understood that blindness need not be a barrier to full participation in social and economic life, and the white cane is responsible for some of this progress.

Nevertheless, in certain situations—on a busy street, near construction sites, or wherever there are unusual obstacles or hazards—a white cane user may still need help. Yet some people may be reluctant to offer it, for fear of saying or doing the wrong thing. Most blind people understand this hesitancy and are glad to explain their needs if they are asked.

The white cane also signals to motorists and cyclists that the user is blind—but it cannot signal the user that a vehicle is approaching. Thus it is the driver's responsibility to exercise extra caution.

To heighten public awareness of the importance of the white cane to the independence and safety of thousands of blind and visually handicapped Americans, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003; 36 U.S.C. 169d), has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 15, 1977, as White Cane Safety Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-29202 Filed 9-30-77;11:32 am]

rules and regulations

[3410-02]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

NOTE: The CFR checklist appears at page 53627 of this issue.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 574; Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 23-29, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period September 23-29, 1977.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(a) *Order, as amended.* The provisions in paragraph (a)(1)(i), and (ii) of § 908.874. Valencia Orange Regulation 574 (42 FR 47819) are hereby amended to read as follows:

§ 908.874 Valencia Orange Regulation 574.

(a) * * *

(1) * * *

(i) District 1: 330,000 cartons;

(ii) District 2:495,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: September 28, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29010 Filed 9-30-77;8:45 am]

[Lemon Reg. 113]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period October 2-8, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons continues good. Average f.o.b. price was $7.45 per carton the week ended September 24, 1977, compared to $7.34 per carton the previous week. Track and rolling supplies at 115 cars were down 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommenda-

tion and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on September 27, 1977.

§ 910.413 Lemon Regulation 113.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 2, 1977, through October 8, 1977, is established at 205,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as ameended; 7 U.S.C. 601–674)

Dated: September 28, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-28985 Filed 9-29-77;11:26 am]

[3410-02]

[Pear Reg. 16, Amdt. 1]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Minimum Grade, Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipment of Beurre D'Anjou variety winter pears shipped from Oregon (except the Medford District), Washington, and California, and certain quality requirements for shipments from designated areas of Oregon and Washington, during the period August 8, 1977, through June 30, 1978. This action is necessary to assure that the pears shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: August 8, 1977, through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* Notice was published in the FEDERAL REGISTER issue of August 18, 1977 (42 FR 41644), that the Department was giving consideration to a proposal submitted by the Control Committee to amend § 927.316 by changing the expiration date thereof from September 30, 1977, to June 30, 1978. The notice invited interested persons to submit written data, views, or arguments on the proposal not later than September 9, 1977. No such material was received.

However, subsequent to the notice period the committee recommended that the limitation specified in the regulation with respect to 180 size pears should not apply to pears of such size shipped in export markets. This recommendation is based on the current and prospective demand for such pears by export market outlets.

This amendment to Pear Regulation 16 is to be issued under the applicable provisions of the amended marketing agreement and Order No. 927 (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the recommendations made by the committee and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of D'Anjou Pears are currently in progress and to effectuate the declared policy of the act, the regulation, as hereinafter amended, should be extended without interruption for the remainder of the season; (2) compliance with the regulation will not require any special preparation on the part of handlers which cannot be completed by the effective time hereof; and (3) except for less restrictive size requirements on export shipments the provisions of this amendment are identical with the recommendation of the committee which was published in the aforesaid notice.

The provisions of § 927.316 (Pear Regulation 16; 42 FR 39670) are hereby amended to read as follows:

§ 927.316 Pear Regulation 16.

(a) During the period August 8, 1977, through June 30, 1978, no handler shall ship any Beurre D'Anjou variety of pears, except such variety grown in the Medford District, unless such pears meet the following requirements or are handled in accordance with paragraph (b) of this section: *Provided,* That, any Beurre D'Anjou pears shipped from the Medford District shall meet the requirements of subparagraph (2) of this paragraph.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler, during the aforesaid period: *Provided,* That such limitation with respect to 180 size pears shall not apply to pears of such size shipped to export markets: *Provided further,* That, pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size: *Provided, Further,* That, pears of such variety which fail to meet the U.S. No. 2 grade requirements only because of serious damage but not very serious damage caused by healed hail marks or by frost, may be shipped if the shape of the pear is such that it will cut at least one good half;

(2) Buerre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts through November 1, 1977, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of Beurre D'Anjou variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60(a), under the following conditions:

(1) Each handler desiring to make shipments of Beurre D'Anjou variety of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee on forms furnished by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears (7 CFR 51.1300–51.1323); "135 size," "165 size," and "180 size," shall mean that the pears of such designated sizes will pack, in accordance with the sizing and packing specifications of a standard pack as specified in said United States Standards, 135, 165, or 180 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 28, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29011 Filed 9-30-77;8:45 am]

[3410-02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK) DEPARTMENT OF AGRICULTURE

[Milk order No. 133]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Suspending Certain Provisions and Termination of Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules and termination of proceeding.

SUMMARY: This action relaxes for September, October and November 1977 the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension is based on a cooperative association's proposal considered at a public hearing held for this order on September 15, 1977, in Spokane, Wash. This action will aid in the continued association of milk of producers under the order.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7183).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing—Issued August 29, 1977; published September 2, 1977 (42 FR 44243).

This order of suspension and termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of September, October and November 1977 the following provisions of the order do not tend to effectuate the declared policy of the Act and are hereby suspended:

1. In § 1133.13(c) (1) and (2), the words "50 percent in any of the months of September through March, and", and the words "in any of the months of April through August,".

STATEMENT OF CONSIDERATION

This action increases the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of September, October and November 1977. In the case of a cooperative, the limit is increased from 50 percent to 70 percent of its total member milk received at all pool plants or diverted therefrom. For the operator of a pool plant, the higher 70 percent limit would apply to the milk received at or diverted from such pool plant from producers who are not members of a cooperative that has diverted milk. The order now permits diversions of up to 50 percent of such receipts for the months of September through March and 70 percent for all other months.

Such action is based upon a public hearing held for this order on September 15, 1977, at Spokane, Washington. A cooperative association that supplies the market with a substantial part of its fluid milk needs and handles most of the market's reserve milk supplies proposed that emergency action be taken to provide for the months of September, October and November 1977 the same diversion limits (a maximum of 70 percent) that apply during the heavy milk production months of April through August. The proposal was unopposed at the hearing.

Reserve milk supplies in this market, most of which are diverted from pool plants to nonpool manufacturing plants by the proponent cooperative, usually decline during the fall months. However, beginning in September this year reserve milk supplies are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk.

At the hearing, the cooperative indicated that the present build up in the market's reserve milk supplies is largely due to a substantial increase in milk production by producers regularly supplying the market. Deliveries by producers are above year earlier levels (up over 10 percent for the first seven months of 1977 compared to the same months in 1976). At the same time, fluid milk sales have declined (down 2.4 percent during the first seven months of 1977 from the comparable period in 1976). Consequently, the need to divert additional reserve milk to manufacturing outlets, as indicated by the cooperative, will be necessary beginning in September. The cooperative also indicated that without immediate action, it expects that some of the milk of its member producers, who have regularly supplied the fluid milk needs of the market, and whose milk is expected to be needed when the supply-demand situation improves, will be excluded from the pool beginning in September. Immediate action is thus necessary to assure that producers who are regular suppliers of milk for the fluid market will continue to have their milk pooled and priced under the order.

Any delay in relaxing the limits on diversions could deprive certain dairy farmers producer status under the order beginning in September. Therefore, this suspension order is the only practicable means of assuring continued producer status of certain dairy farmers associated with the market for September, October and November 1977. There is insufficient time to resolve the diversion problem for September and October 1977 on an amendatory basis, and amendatory action for November could be accomplished only through emergency procedures, which would entail the omission of a recommended decision and the opportunity to file exceptions thereto. It is concluded, therefore, that the requested relief for all three months should be resolved by this suspension and that the hearing proceeding be terminated.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the fluid market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Producers requested this suspension at a public hearing held on September 15, 1977, and such action was not opposed.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended with respect to fluid milk marketings during the months of September, October and November 1977, and that the proceeding which began August 29, 1977 (Docket No. AO–275–A29; 42 FR 44244) is hereby terminated.

(Secs. 1–19, 48 Stat. 31, as amended; U.S.C. 601–674.)

Effective date: October 3, 1977.

Signed at Washington, D.C. on September 27, 1977.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc.77-29016 Filed 9-30-77;8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-NW-25-AD; Amdt. 39-3048]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77-18-06 which requires inspections of the horizontal stabilizer center section front spar

junction fitting on Boeing Model 727 series airplanes. The amendment is necessary to relieve an unnecessary burden by clarifying the repetitive inspection requirements of that AD.

DATES: Effective date: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Amendment 39-3034 (42 FR 45629), AD 77-18-06, was issued on September 1, 1977, to require inspections for cracks of the horizontal stabilizer center section front spar junction fittings, which were made from 7079-T6 aluminum alloy material, on Boeing Model 727 series airplanes. Due to adverse service experience, this AD superseded AD 77-10-08, which required a one-time visual inspection within 750 flight hours and a one-time eddy current or dye penetrant inspection within 3,000 flight hours.

After issuing Amendment 39-3034, the FAA became aware that the first repetitive inspection for airplanes inspected prior to the effective date of the amendment (September 12, 1977), may be required far earlier than intended. The repetitive inspections would unintentionally penalize operators.

Accordingly, paragraph C of the AD is being revised to clarify the intended compliance time for the initial repetitive inspection of previously eddy current or dye penetrant inspected airplanes.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-3034, AD 77-18-06, is amended by amending paragraph C to read as follows:

C. 1. Except as provided for in paragraph C.2 below, repeat the inspections per paragraph B of this AD at intervals of either a or b below:

a. 1,500 flight hours time-in-service or nine (9) months from the last inspection, which ever occurs first, or

b. 3,000 flight hours time-in-service or eighteen (18) months from the last inspection, whichever occurs first, if the fittings are reworked in accordance with Boeing Alert Service Bulletin No. 727-55-A69, Revision 1, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

2. Airplanes which were inspected prior to the effective date of this AD (September 12, 1977), and since April 20, 1977 (by eddy current or dye penetrant methods equivalent to those specified in paragraph B of AD 77-10-08), may be reinspected in accordance with a or b below but are subject to the limitations set out in c below:

a. Within 1,500 flight hours time-in-service from the last inspection.

b. Within 750 flight hours time-in-service from the effective date of this AD (September 12, 1977).

c. Notwithstanding the provisions of paragraph a and b above, the repeat inspection must be accomplished no later than nine (9) months from the effective date of this AD and thereafter at the intervals specified in C.1.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Margainal Way South, Seattle, Wash. 98108,

This amendment becomes effective October 3, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on September 23, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

(The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.)

[FR Doc.77-28992 Filed 9-30-77;8:45 am]

[4910-13]

[Docket No. 14806; Amdt. 39-3050]

PART 39—AIRWORTHINESS DIRECTIVES

Pilatus Aircraft, Ltd., and Fairchild Hiller Model PC-6 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections and anticorrosive treatment or replacement, if necessary, of the wing struts on all Pilatus Aircraft, Ltd., and certain Fairchild Hiller Model PC-6 airplanes and of wing strut brackets on Pilatus Aircraft, Ltd., Model PC-6 airplanes. This AD is required to prevent degradation of wing strut and wing strut bracket structural strength beyond safe limits which could result in wing structural failure.

DATES: Effective November 3, 1977. Compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Pilatus Aircraft, Ltd., 6370 Stans, Switzerland and Fairchild Republic Division, Hagerstown, Md. 21740. Copies of the service bulletins are contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections and anticorrosive treatment of the wing struts and the wing strut attachment brackets on Pilatus Model PC-6 airplanes manufactured by Pilatus Aircraft, Ltd., was published in the FEDERAL REGISTER at 40 FR 30980. The proposal was prompted by reports of corrosion developing inside the wing struts and on the wing strut attachment brackets of Pilatus PC-6 airplanes that could result in weakening and eventual failure of the struts and brackets with consequent wing structural failure.

Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received. However, the FAA has determined that certain Model PC-6 airplanes manufactured by Fairchild Hiller are subject to the same wing strut corrosion problem as the Model PC-6 airplanes manufactured by Pilatus Aircraft, Ltd. Therefore, the applicability statement of the proposal has been revised to cover specified Fairchild Hiller Model PC-6 airplanes. In addition, several clarifying changes have been made to the proposal. These include the addition of the words "certificated in all categories" to the proposal's applicability statement and the reorganization of the proposal to more clearly state the requirement for replacing struts or brackets. Since this AD is needed to prevent wing structural failures in service, it is found that additional notice and public procedure hereon are impracticable.

DRAFTING INFORMATION

The principal authors of this document are D. C. Jacobsen, Europe, Africa, and Middle East Region, J. J. Presba, Flight Standards Service, and R. Lane, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PILATUS AIRCRAFT, LTD. AND FAIRCHILD HILLER. Applies to Model PC-6 airplanes (all variants) manufactured by Pilatus Aircraft, Ltd., up through S/N 724 and to Model PC-6 airplanes (all variants) manufactured by Fairchild Hiller, S/N's 2001 through 2047, certificated in all categories.

Compliance is required within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 75 hours time in service, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, until the conditions of paragraph (c) are met.

(a) To prevent a hazardous degree of corrosion from developing inside the wing struts, accomplish the following:

(1) Visually inspect the internal surface of each wing strut for corrosion in accordance with paragraph 2.1 of Pilatus Aircraft Ltd., Service Bulletin No. 105, dated May 1971, (hereinafter S.B. No. 105) for Pilatus manufactured airplanes or paragraph 2A of Fairchild Hiller Service Bulletin PC6-57-3, dated July 15, 1971 (hereinafter S.B. PC6-57-3), for Fairchild Hiller airplanes, or an FAA-approved equivalent.

(2) If only light corrosion (corrosion which has not caused surface blistering) is found during an inspection required by paragraph (a) (1) of this AD, within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, remove the corrosion from, and apply an anticorrosive treatment to, the inside of the wing strut in accordance with paragraph 2.3 of S.B. No. 105 or paragraph 2D of S.B. PC6-57-3, as applicable, or an FAA-approved equivalent.

(3) If corrosion is found during an inspection required by paragraph (a) (1) of this AD which has resulted in exceeding the limits prescribed in paragraph (a) (2), within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, replace the wing strut with a serviceable strut of the same part number that has had anticorrosive treatment applied to the inside surface in accordance with paragraph 2.3 of S.B. No. 105 or paragraph 2D of S.B. PC6-57-3, as applicable, or an FAA-approved equivalent.

(b) For Pilatus Aircraft, Ltd., Model PC-6 airplanes, S/N's 338 through 701, to prevent a hazardous degree of corrosion from developing on the wing strut attachment brackets, accomplish the following:

(1) Visually inspect each wing strut attachment bracket for corrosion in accordance with paragraph 2.1 of Pilatus Aircraft, Ltd., Service Bulletin No. 93, dated June 1969, (hereinafter S.B. No. 93) or an FAA-approved equivalent.

(2) If only light corrosion (corrosion which has caused 2 percent to 10 percent reduction in cross-section per paragraph 2.2 of S.B. No. 93) is found during an inspection required by paragraph (b) (1) of this AD, within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, remove the corrosion and apply an anti-corrosive treatment to the wing strut attachment bracket in accordance with paragraph 2.4 of S.B. No. 93, and reinstall the bracket in accordance with paragraph 2.5.1 of S.B. No. 93 or an FAA-approved equivalent.

(3) If corrosion is found during an inspection required by paragraph (b) (1) of this AD which has resulted in exceeding the limits prescribed in paragraph (b) (2) of this AD, within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, replace the wing strut attachment bracket with a new wing strut attachment bracket [P/N 111.35.06.055 (left) or 111.35.06.056 (right)] in accordance with paragraph 2.5.2 of S.B. No. 93 or an FAA-approved equivalent.

(c) The inspections required by paragraph (a) (1) or (b) (1) of this AD may be discounted, in accordance with the following:

(1) Inspection of the wing strut when the strut has had light corrosion removed and has had the anticorrosive treatment in accordance with paragraph (a) (2) or when the strut has been replaced in accordance with paragraph (a) (3) of this AD.

(2) Inspection of the wing strut attachment bracket when the bracket has had light corrosion removed and has had the anticorrosive treatment in accordance with paragraph (b) (2), or when the bracket has been replaced in accordance with paragraph (b) (3) of this AD.

This amendment becomes effective November 3, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 23, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-28993 Filed 9-30-77;8:45 am]

[4910-13]

[Docket No. 17053; Amdt. 39-3049]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection of the "Aeroquip" fuel burner feed and manifold pipes and reworking or replacement, if necessary, of the pipes on certain Rolls Royce Dart engines to prevent the failure of the pipes which could result in fuel leaks and a fire.

DATES: Effective November 3, 1977. Compliance required within the next 2,000 hours engine time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from: Rolls Royce, Ltd., P.O. Box 31, Derby, DE 8 BJ, England.

A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an inspection of the "Aeroquip" fuel burner feed and manifold pipes and reworking or replacement, if necessary, of the pipes on certain Rolls Royce Dart engines, was published in the FEDERAL REGISTER at 42 FR 38387 on July 28, 1977. The proposal was prompted by reports of failures of the fuel burner feed and manifold pipes on certain Rolls Royce Dart engines that could result in fuel leakage and a fire.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are R. E. Follensbee, Western Region, R. F. Nugent and F. H. Kelley, Flight Standards Service, and K. May and R. Burton, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

ROLLS ROYCE AERO, LTD. Applies to Dart engines Series 506, 510, 511, 514, 525, 528, 529, 532 and variants, installed on, but not necessarily limited to, BAC Viscount 744 and 745D; Fokker F-27 Mk. 100, 200, 300, 400, 600, 700; Fairchild F-27, 27A, 27B, 27F, 27G, 27J, 27M; Fairchild-Hiller FH-227, 227B, 227C, 227D, 227E; Armstrong Whitworth Argosy 650, Series 101; Grumman G-159; and Hawker Siddeley HS-748 Series 2A aircraft.

Compliance is required within the next 2,000 hours engine time in service after the effective date of this AD, unless already accomplished.

To prevent the failure of the fuel burner feed and manifold pipes that could result in fuel leakage and a fire, accomplish the following:

(a) Inspect the fuel burner feed and manifold pipes and determine if any of the pipes meet both of the following specifications:

(1) The pipe is an "Aeroquip" pipe incorporating Dart Modification 1537 and having one of the following part numbers:

RK. 38457A Pipe Assembly—Fuel Feed to No. 4 Burner.

RK. 38458A Pipe Assembly—Fuel Feed to Nos. 1, 2 and 7 Burners.

RK. 38456A Pipe Assembly—Fuel Feed to Nos. 3 and 6 Burners.

RK 38453A Pipe Assembly—Fuel Feed to No. 5 Burner.

RK. 45363A Fuel Manifold—Assembly No. 5 to P.C.U. Bulkhead Connection.

(2) The pipe was manufactured prior to March 1, 1974, and the metal identity tag located around the fireproof sleeve of the pipe (which contains the date of manufacture) has not been marked with (i) the marking "DRS.635"; (ii) an engine number or a running time; (iii) a second date marking in brackets which is later than March 1, 1974; or (iv) the marking "ZERO".

(b) If, during the inspection required by paragraph (a) of this AD, a pipe is found that meets the specifications contained in

paragraph (a) of this AD, before returning the engine to service, inspect the pipe for the presence of corroded, cracked, or broken wires using 5X or 10X magnification in accordance with the instructions contained in paragraphs 4A and 4B of Rolls Royce Dart Service Bulletin Da 73-73, dated August 29, 1975 (hereinafter SB Da 73-73), or an FAA-approved equivalent, and comply with paragraph (c) or (d) of this AD, as applicable.

(c) If, during the inspection required by paragraph (b) of this AD, the pipe wires are found to be corroded, cracked or broken, before returning the engine to service, replace the pipe with a serviceable pipe or rework in accordance with paragraph 4B(7) of SB Da 73-73, or an FAA-approved equivalent.

(d) If, during the inspection required by paragraph (b) of this AD, the pipe is found to be serviceable, before returning the engine to service, clean and identify the pipe in accordance with paragraphs 4B(4) and 4B(6) of SB Da 73-73, or an FAA-approved equivalent.

(e) The FAA-approved equivalent means of compliance specified in paragraphs (b), (c), and (d) of this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, N.Y. 09667.

This amendment becomes effective November 3, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 23, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-28994 Filed 9-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 76-AL-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates the FRIED and MOCHA reporting points for high and low air traffic use and rescinds the MUZON reporting point. This action will assist in the control of air traffic in the area southwest of Annette Island, Alaska.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

HISTORY

On Auguset 15, 1977, the FAA published for comment a proposal to designate and alter two reporting points southwest of Annette Island, Alaska, and to rescind the MUZON reporting point which is collocated with the MOCHA reporting point (42 FR 41136). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) redesignates two reporting points, one at FRIED and one at MOCHA intersections for use in both high and low flight operations. It also rescinds the MUZON reporting point to avoid having a single reporting point with two different names.

DRAFTING INFORMATION

This principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) is amended, effective 0901 GMT, December 1, 1977, as follows:

In § 71.211 (42 FR 638) FRIED: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, NDB 314° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MOCHA: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, 331° bearing)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MUZON: title and text is deleted.

In § 71.213 (42 FR 640) "FRIED: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is substituted therefor.

In § 71.213 (42 FR 640) "MOCHA: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is substituted therefor.

In § 71.213 (42 FR 640) "MUZON: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is deleted.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1349(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-28988 Filed 9-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 76-WA-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Restricted Area—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of August 15, 1977, Volume 42, page 41110, a set of geographic coordinates were inadvertently omitted. This correction includes the geographic coordinates of "Lat. 20°36'-20" N., Long. 156°34'50" W.;" which should have been included.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: FR Doc. 77-23324 was published on August 15, 1977 (42 FR 41110), with an effective date of October 6, 1977, and realigned a segment of VOR Federal Airways identified as V-2 and V-21 Hawaii and redefined Restricted Area R3104 Island of Kahoolawe, Hawaii. In the description of R-3104 a set of geographic coordinates were inadvertently omitted. Action is taken herein to correct this error.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 77-23324, appearing on page 41110 in the FEDERAL REGISTER of August 15, 1977, the amendatory language to § 73.31 is corrected to read as follows:

In R-3104A, R-3104B, and R-3104C Island of Kahoolawe, Hawaii, "20°37'00" N., Longitude 156°35'15" W.;" is deleted and "20°36'20" N., Longitude 156°36'30" W.; to Latitude 20°36'20" N., Longitude 156°34'50" W.;" is substituted therefor.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) of 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Washington, D.C., on September 27, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-28989 Filed 9-30-77;8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-121, Amdt. 53]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Amendment of Delegation of Authority to the Bureau of Operating Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule grants the Bureau of Operating Rights delegated authority to dismiss, when technically inadequate, certain applications for removing or modifying restrictions in a certificate of public convenience and necessity. Since dismissal of such applications does not involve policy decisions, the Board initiated this rule to remove an administrative burden.

DATES: Effective: September 27, 1977. Adopted: September 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry S. Spector, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5334).

SUPPLEMENTARY INFORMATION: The Board's regulations set forth special rules applicable to proceedings on certain applications for removal or modification of restrictions in certificates of public convenience and necessity. These rules are contained in Subparts M (§§ 302, 1301-1315) and N (§§ 302.1401-1405) of the Board's Procedural Regulations. They generally provide for a more limited evidentiary hearing and certain expedited procedures following the hearing.

Each subpart contains a provision that upon consideration of an application and responses filed under that subpart, the Board may dismiss the application, without prejudice to refiling in amended form or under the normal certificate procedure, if the Board finds that the application is not in compliance with the provisions of the subpart sections 302.1305 and 302.1405. Such dismissals are based solely on technical compliance with the special rules set forth in Subparts M and N. No policy determinations are made by the Board.

In view of the above, the Board has determined that the administration and operation of its regulations will be improved by delegating to the Bureau of Operating Rights authority to dismiss Subpart M and N applications when they do not comply with the provisions of those subparts. By delegating this authority to the Bureau, the Board can relieve itself of an administrative burden in an area that does not require any policy decisions from the Board.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, it is found that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

In § 385.13, a new paragraph (jj) is added to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

* * * * *

(jj) Dismiss applications filed under §§ 302.1301-1315 and §§ 302.1401-1415, without prejudice to refiling in amended form or under the normal certificate procedure, if the application is not in compliance with the provisions of these sections.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29044 Filed 9-30-77;8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER B—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. RM77-6; Order No. 558-G]

PART 2—STATEMENT OF PROCEDURE PRESCRIBED FOR THE IMPLEMENTATION OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976, 15 U.S.C. 719, ET SEQ.

Order

AGENCY: Federal Power Commission.

ACTION: Final rule.

SUMMARY: This order amends the Commission's regulations implementing the Alaska Natural Gas Transportation Act of 1976. The Commission is required to submit a Report to the Congress commenting upon the President's selection. The Report is due twenty days after the President's transmittal. This order provides for designation of a group to prepare the Commission's Report. It also provides that designated members are not bound by certain ex parte restrictions imposed previously.

EFFECTIVE DATE: September 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Brian J. Heisler, Office of the General Counsel, 202-275-4286.

SUPPLEMENTARY INFORMATION:

ORDER PRESCRIBING FURTHER PROCEDURES AND AMENDING SECTION 2.100 OF THE COMMISSION'S GENERAL POLICY AND INTERPRETATIONS

Pursuant to Section 16 of the Natural Gas Act (52 Stat. 830, 15 U.S.C. 717o) and Sections 3, 5 and 8 of the Alaska Natural Gas Transportation Act of 1976 (90 Stat. 2904, et seq., 15 U.S.C. 719c), the Commission is hereby amending § 2.100 of its General Policy and Interpretations (18 CFR 2.100) to prescribe procedures for preparation of a report to the Congress commenting upon the President's decision which is scheduled for September 1, 1977. In preparation of its Report the Commission is directed to submit its comment within 20 days of the President's transmittal and to include any information with regard to the President's decision which the Commission considers appropriate. This order expands the procedural schedule set out in Order No. 558, issued December 14, 1976, which culminated in the Recommendation to the President issued May 1, 1977.

In order to permit preparation of this report to the Congress in the 20 days allotted, it will be necessary to utilize all Commission employees without regard to their previous roles in the development of the record. In this regard an exception must be provided to the procedures previously adopted in Paragraph (e) of § 2.100, Part 2, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations, which presently provides as follows:

§ 2.100 Statement of procedures prescribed for the implementation of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq.

* * * * *

(e) The ex parte rule of the Commission, as set forth in 18 CFR 1.4(c), shall not apply hereunder except that the Commission or a delegate shall not receive communications regarding matters of substance from any of the following persons:

(1) Any applicant, or affiliate thereof, or any witness for an applicant;

(2) Counsel for any applicant or party to the proceeding; and

(3) Any party or any witness for such party, if such person has advocated on the record the approval or rejection of any project proposed by any applicant.

The restrictions in this subsection shall not apply to written communications for presentation of or analysis of supplemental information or data that are filed or received pursuant to the terms of Order 558-C.

The restrictions imposed in this section were designed in part to insure impartiality in the process through which the exceptions of the parties were considered and to allow a continued advocacy role for the Staff members who participated as a party throughout the hearings and in the oral argument. The consideration of the exceptions raised by the parties was concluded by the Recommendation to the President issued May 1, 1977,[1] and Staff's advocacy role

[1] We rejected El Paso Alaska Company's petition for reconsideration on June 10, 1977.

was completed in oral argument. The rationale of subsection (e) with respect to Staff communication thus no longer applies and should not remain in effect for the comment prepared pursuant to this order. Of course, the Commission in evaluating materials presented by Staff members will be cognizant of any position previously taken by such person.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Alaska Natural Gas Transportation Act of 1976 that § 2.100 of the Commission's General Policy and Interpretations be amended to provide for preparation of a report commenting on the President's decision as provided herein.

(2) In view of the purpose, intent and effect of the amendment, good cause exists for making it effective upon receipt of the report from the President.

The Commission, acting pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976, (90 Stat. 830, 15 U.S.C. 719 et seq.) particularly Sections 3, 5 and 8 thereof, and pursuant to the Natural Gas Act, particularly Section 16 thereof (52 Stat. 830, 15 U.S.C. 7170) orders:

Section 2.100, Part 2, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new paragraph (f) to read as follows:

§ 2.100 Statement of procedures prescribed for the implementation of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719 et seq.

* * * * *

(f) Notwithstanding the provisions of paragraph (d) of this section, the Chairman shall designate by letter persons to assist the Commission in preparation of its report to the Congress commenting upon the President's decision. Ex parte restrictions imposed by paragraphs (d) and (e) of this section shall not apply to communications from such persons to the Commission in concerning this report.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29008 Filed 9-30-77;8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 797-1]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: This amendment changes the effective date of the interim subagreement regulations to allow additional time to consider alternatives.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460 (202-755-0850).

SUPPLEMENTARY INFORMATION: Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8039) with an effective date of March 31, 1977, which was subsequently extended to October 1, 1977 (42 FR 33033). By this action, the effective date is changed as follows:

EFFECTIVE DATE. These interim Part 33 subagreement regulations shall become effective on March 1, 1978, and shall govern all procurement actions under grants awarded on or after that date. Procurement actions taken under grants awarded prior to March 1, 1978, are subject to these regulations if the grant (1) includes a special condition requiring compliance with 40 CFR Part 33, or (2) is a Section 208 FWPCA grant subject to EPA Program Guidance Memorandum SAM-14 (published April 27, 1976, at 41 FR 17702).

Dated: September 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-28922 Filed 9-28-77;4:08 pm]

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802-8]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is waiving the non-Federal share requirement for those funds which are converted from Program Account No. 22 in the Special Crisis Intervention Program to Program Account No. 21 in support of Weatherization. CSA had previously stated that those funds would be subject to existing CSA non-Federal share requirements. This rule will relieve grantees of the burden of mobilizing additional matching resources for which they had no opportunity to plan due to circumstances beyond their control.

DATE: This rule becomes effective October 3, 1977, since it benefits all grantees involved.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Lumpkin, Community Services Administration, Office of Operations, Emergency Energy Conservation Program, 1200 19th Street NW., Washington, D.C. 20506. Telephone: 202-254-5240.

SUPPLEMENTARY INFORMATION: On June 29, 1977 CSA published in the FEDERAL REGISTER a letter and a memorandum dated May 25, 1977, by which the Governor of each State, Puerto Rico, and the Virgin Islands and the Mayor of the District of Columbia had been notified that funds for the Special Crisis Intervention Program were available and which detailed the conditions under which the program would be operated. The memorandum also noted that the funds granted to each State which could not be obligated effectively for crisis intervention by the expiration date of the program would be reprogrammed for support of weatherization activities and that those funds would be subject to existing CSA non-Federal share requirements.

However, grantees had no way of knowing about the extent of this additional funding, or whether in fact funds would be available at all for conversion to weatherization, and therefore have had no opportunity to plan for additional matching resources. Moreover, these funds came at the same time as grantees received a three hundred percent increase in energy funding which itself has all but exhausted the sources of such non-Federal assistance. Under these circumstances and inasmuch as these funds were originally appropriated by the Congress for a program with no non-Federal share requirement, CSA has determined that it is programmatically logical to waive the non-Federal share requirement for those funds which are converted from Program Account No. 22 in the Special Crisis Intervention Program, to Program Account No. 21 in support of Weatherization.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Part 1068 is amended by adding a new subpart as follows:

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

Sec.
1068.25-1 Applicability.
1068.25-2 Policy.

AUTHORITY: Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

§ 1068.25-1 Applicability.

This subpart applies to grants made under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, for the Special Crisis Intervention Program funds which were part of the fiscal year 1977 Supplemental Appropriation.

§ 1068.25–2 Policy.

A waiver of the non-Federal share requirement is granted for those Special Crisis Intervention Program funds which were a part of the fiscal year 1977 Supplemental Appropriation, which could not be effectively spent under that program, and which, in accordance with the language of the Senate Appropriations Committee Report, are being converted from Program Account No. 22 to Program Account No. 21 to support weatherization activities.

[FR Doc.77-28912 Filed 9-30-77;8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1276]

PART 1033—CAR SERVICE

Michigan Interstate Railway Company Authorized To Operate Portion of Former Ann Arbor

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1276).

SUMMARY: Service Order No. 1276 authorizes the Michigan Interstate Railway Company (MI) to operate over the former Ann Arbor (AA) line between Ann Arbor, Michigan, and Toledo, Ohio. Present operation of the entire line of the former AA between Toledo and Frankfort, Michigan, passing through Ann Arbor, is being terminated September 30, 1977, because of the cancellation of the operating agreement between the State of Michigan and ConRail. The portion of the railroad west of Ann Arbor will be operated by the MI as Designated Operator for the State of Michigan. The State owns the portion of the AA between Ann Arbor and Toledo, Ohio, and this portion is being leased to the MI. Operation by the MI over these tracks of the former AA between Ann Arbor and Toledo is necessary to continue essential rail service to shippers served by the line, and to maintain through connections with that portion between Ann Arbor and Frankfort.

DATES: Effective 12:01 a.m., October 1, 1977. Expires 11:59 p.m., January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 28th day of September, 1977.

The Michigan Department of State Highways and Transportation (State), the owner of those portions of the former Ann Arbor (AA) extending between Toledo, Ohio, and Ann Arbor, Michigan, and between East Pittsfield, Michigan, and Saline, Michigan, has terminated its agreement with the Consolidated Rail Corporation (ConRail) for operation of these lines on its behalf, effective at 12:01 a.m., October 1, 1977. These lines have been leased by the State to the Michigan Interstate Railway Company (MI), which will also become the designated operator for the State of the remaining lines of the former AA between Ann Arbor and Frankfort, Michigan, thence via car ferries between Frankfort and certain ports in Wisconsin on the west shore of Lake Michigan. Operation by the MI of the lines it has leased from the State and of the additional lines as designated operator for the State must commence at 12:01 a.m., October 1, 1977, in order to provide uninterrupted rail service to shippers using these lines. In the opinion of the Commission, operation by the MI over these tracks of the former AA is necessary in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1276 Service Order No. 1276.

(a) *Michigan Interstate Railway Company authorized to operate portions of former Ann Arbor.* The Michigan Interstate Railway Company (MI) is authorized to operate over tracks of the former Ann Arbor (AA) between:

(1) Toledo, Ohio, and Ann Arbor, Michigan, a distance of 47.54 miles, and between;

(2) East Pittsfield, Michigan, and Saline, Michigan, a distance of 5.6 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the MI over tracks previously operated by the Consolidated Rail Corporation (ConRail) and over tracks of the AA is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via ConRail, until tariffs naming rates and routes specifically applicable via the MI become effective.

(d) In transporting traffic over these lines, the MI, and all other common carriers shall proceed even though no interchange agreements or contracts, agreements, or arrangements with reference to the divisions of the rates of transportation applicable to that traffic now exist between them. Interchange arrangements and divisions shall be those in effect March 31, 1976, when operation of these lines by the former AA ceased, unless other interchange or divisional agreements have been voluntarily agreed upon between the carriers, or unless other bases for interchange or division of revenues have been established by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) *Effective date.* This order shall become effective at 12:01 a.m., October 1, 1977.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15, and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-29017 Filed 9-30-77;8:45 am]

[7035-01]

[Ex Parte No. 325]

PART 1091—PRACTICES OF FOR-HIRE MOTOR COMMON CARRIERS OF PROPERTY PARTICIPATING IN ALASKAN MOTOR-OCEAN-MOTOR (AMOM) SUBSTITUTED SERVICE

Substituted Service—Water-For-Motor Service (Fishyback Service)—Alaskan Trade

AGENCY: Interstate Commerce Commission.

ACTION: Rulemaking.

SUMMARY: In response to the June 28, 1976, notice of proposed rulemaking and order, the Administrative Law Judge to whom the rulemaking proceeding was assigned, after submission of pleadings in the matter, would impose rules and regulations to govern the use of substituted water-for-motor service in the Alaskan trade. The rules applicable to motor common carriers which hold operating rights between points in Alaska, on the one hand, and, on the other points in all or part of the 48 contiguous States, but which do not hold authority to serve the port points at which substitution by maritime water carrier would be effected.

EFFECTIVE DATE: February 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202-275-7693.

SUPPLEMENTARY INFORMATION: Background: The Interstate Commerce Commission in rendering decisions concerned with substituted service generally has held that in order for the motor common carrier under Part II of the Interstate Commerce Act to tender freight to and be retendered freight from another carrier mode in substituted service, the points at which the motor carrier effects the exchange of freight must be points which it is specifically authorized to serve. It has been held that mere possession of authority from ultimate origin to ultimate destination (so-called overhead authority) was insufficient to allow substitution at points not specifically authorized. Certain motor common carriers holding such overhead rights had been operating between their respective territories in the United States and Alaska by operating over the Alcan highway. Such carriers by tariff rule sought in early 1976 to be allowed in addition to their Alcan operations to use Seattle and Tacoma, Wash., as points where they would substitute the services of a maritime water carrier for movement between Seattle and Tacoma and Anchorage, Alaska. Objections were raised and the matter was subsequently placed in a rulemaking posture to ascertain the need for possible departure from prior Commission holdings regarding the need to have specific rights at the points where substituted service would be effected. The concerned motor carriers desiring to have rules promulgated in their favor would also be willing to publish tariffs which hold out the substituted service year round and at lower rates than the Alcan route, with the shipper always having the benefit of the less costly substituted service route unless it specifically directed movement over the Alcan.

The report of the Administrative Law Judge finds there are exceptions to the general rule noted above and that same should be recognized here by way of specific rules which also would provide for a dual rate structure to insure the shipping public would always have the benefit of the less costly substituted service route unless otherwise directed by a shipper.

The new rules set out the definition of the motor-ocean-motor substituted service, who can participate in same, and what each irregular route motor common carrier's tariff publication must set forth, particularly the dual rate structure. While the motor carriers in favor of rules would hold allowance of the service ot the port of Anchorage, Alaska, the rules set out in the report of the Judge would run to all Alaskan seaports.

Parties to the pleadings have 30 days from the date of service of the Judge's report to file exceptions to his findings.

Issued at Washington, D.C., September 23, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations is amended by adding a new part 1091, as follows:

Sec.
1091.1 Definition of AMOM Service.
1091.2 Motor carrier operating rights requirement for participation.
1091.3 Rate division arrangements with ocean carriers.
1091.4 Tariff notice for AMOM Service and shipper designation feature.
1091.5 Motor carrier bill of lading designation.
1091.6 Motor carrier tariff inclusions for AMOM Service.
1091.7 Motor carrier two-tier rate structure—conditions for use.
1091.8 Nonapplicability of AMOM Service to exempt commodities.

AUTHORITY: Secs. 553 and 559 of the Administrative Procedure Act (5 U.S.C.), the national transportation policy (49 U.S.C. preceding section 1) and Parts I, II, III, and IV of the Interstate Commerce Act, and particularly sections 2, 3, 15(3), 15(10), 15(12), 17(3), 204(a)(6), 206(a)(1), 208(b), 210a, 216(c), 216(d), 216(e), 217, 222, 304, 305, 307, 402, 403(a), 404, 406, and 410(a) of the Interstate Commerce Act (49 U.S.C.).

§ 1091.1 Definition of AMOM Service.

Alaskan Motor-Ocean-Motor (AMOM) Service means the use of a common carrier by water subject to the Shipping Act, 1916, as amended, (hereafter referred to as the ocean carrier) by an irregular route motor common carrier authorized to transport property in interstate or foreign commerce under authority granted by the Interstate Commerce Commission between points in Alaska, on the one hand, and, on the other, any points in the continental 48 States (hereafter referred to as the motor carrier) for the movement of its loaded or empty equipment between a seaport in Alaska, on the one hand, and Seattle or Tacoma, Wash., on the other.

§ 1091.2 Motor carrier operating rights requirement for participation.

All motor carriers authorized under irregular route authority to provide service between any point in Alaska, on the one hand, and, on the other, any point in the continental 48 states may tender empty or loaded equipment to and receive their previously-tendered empty or loaded equipment in AMOM Service from ocean carriers at a seaport in Alaska and Seattle or Tacoma, Wash.

§ 1091.3 Rate division arrangements with ocean carriers.

Motor common carriers may enter into arrangements with ocean carriers for the division of revenue derived by motor carriers when AMOM Service is utilized.

§ 1091.4 Tariff notice for AMOM Service and shipper designation feature.

Motor carriers may participate in AMOM Service only if their tariff publications give notice that such service will be utilized, and that the shipper has the right to elect with regard to any particular shipment that AMOM Service not be provided.

§ 1091.5 Motor carrier bill of lading designation.

Bills of lading of motor carriers using AMOM Service must include the following designation:

"☐ Transportation by all-highway service requested.

NOTICE.—Unless the above box is checked, shipment will be transported by carrier over a substituted water route between Seattle or Tacoma, Washington, and a seaport in Alaska."

§ 1091.6 Motor carrier tariff inclusions for AMOM Service.

Tariffs embracing AMOM Service rates or charges, including substituted service directories, if used, shall set forth the underlying operating rights (overhead) relied upon, the service covered by the published rates or charges, the points of substitution between modes of transportation, and the names of the carriers participating therein.

§ 1091.7 Motor carrier two-tier rate structure—conditions for use.

Motor carriers utilizing AMOM Service may publish tariffs setting forth different rates or charges for AMOM Service and for all-highway service if the AMOM Service is available throughout the year and charges and cost incurred are less than the charges and costs incurred for all-highway service.

§ 1091.8 Nonapplicability of AMOM Service to exempt commodities.

Tariffs setting forth charges for AMOM Service may be published only with respect to commodities the transportation of which is subject to economic regulation throughout the entire movement provided for in such tariffs.

[FR Doc.77-28916 Filed 9-30-77;8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURES

[Ex Parte No. 290]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Procedures Governing Rail General Increase Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Final amended rule.

SUMMARY: In the Commission's report and order in this proceeding, regarding procedures governing rail general increase, served March 10, 1976, as modified by order served February 8, 1977, certain rules and regulations were adopted which require the submission of data and information in support of the proposed rail carrier general increases. Petitions for leave to reopen and for reconsideration were filed by respondent railroads on the grounds that changed circumstances and technical errors in the regulations and schedules justified

their request. The Commission granted the petition to reopen. Technical changes in the regulations were made as set forth below, to eliminate any discrepancies in the data which might arise because of the new Uniform System of Accounts. Schedules D, E, and F were simplified, instructions were clarified where warranted in all schedules, and errors in computations were corrected. Otherwise, no substantial changes were made in the rules and regulations.

EFFECTIVE DATE: Service date of order, September 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202-275-7693.

SUPPLEMENTARY INFORMATION: In the report and order in the above-entitled proceeding (351 I.C.C. 544 (1976)), as modified by order served February 8, 1977, certain regulations were prescribed setting forth the filing and serving requirements of rail carrier submissions in a general freight increase proceeding. The respondent railroads, in petitions for leave to reopen and for reconsideration, filed April 28, 1977, showed that changed circumstances warranted the reopening of the proceeding. The Commission upon reopening the proceeding in its order served September 28, 1977, disposed of the arguments presented in respondents' petition. Changes in the schedules were warranted in light of Docket No. 36367, "Revision to the Uniform System of Accounts for Railroads," served June 24, 1977, to eliminate incompatible expense dato which would arise from data based on two different accounting systems. The information to be submitted in some of the schedules was also simplified or clarified. Technical errors in mathematical computations or references to wrong lines, were also corrected. Recyclable commodities not included in the list of commodities to be reported in Schedules C and H were also added in light of our investigation in Ex Parte No. 319, "Investigation of Freight Rates for the Transportation of Recyclable or Recycled Materials," served February 4, 1977. Respondents' request for major changes in the schedules, for example, the elimination of interterritorial district data in Schedule C, the elimination of Schedules G and H, the filing of some schedules on an annual basis etc., were denied, since these changes would deny the Commission and the parties of information needed to determine the justifiability of a general increase. Respondents' request that this proceeding be held in abeyance pending a decision in Ex Parte No. 338, "Standards and Procedures for the Establishment of Adequate Railroad Levels," or in the alternative, incorporation of this proceeding into Ex Parte No. 338, was also denied since that would unduly burden the record in that proceeding and in the interim, deny the Commission and the parties of evidence necessary to consider the merits of the general increase proposal.

The modified instructions and schedules which have been prescribed are set forth below. The changes are effective as of September 28, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

Sec.

49 CFR 1102.1 through 1102.9 shall be revised as follows:

§ 1102.1 Application.

Upon the filing of tariff schedules containing proposed general increases in freight rates or charges for the account of substantially all common carriers by railroad in the United States or in any of the three primary ratemaking territories, namely, eastern, western, or southern, or of a petition seeking authority to file such schedules by relief from outstanding orders of the Commission, or other relief related thereto, the carriers on whose behalf such schedules or petitions are filed shall, concurrently therewith, file and serve as provided hereinafter, verified statements presenting and comprising the entire evidential case which is relied upon to support the proposed increases. Carriers subject to this rule are hereby notified that special permission to file general increase schedules shall be conditioned upon the publishing of an effective date at least 30 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with these regulations represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence previously submitted to reflect the contemporary situation. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act. An increase in freight rates or charges, by the carriers indicated, applying to a substantial number of commodities or services, for which the justification is revenue need, shall be deemed a general increase under this rule. Included within the verified statements required herewith will be copies of a news release and a summary of the increase proposal as hereinafter described:

(a) *News release.*—A news release regarding the increase proposal will be prepared so that the public in general may be apprised of the proposal, and pursuant to this purpose will contain as a minimum essentially the following:

(1) A statement directed to the editor of a newspaper indicating that the news release has been prepared in accordance with regulations of the Interstate Commerce Commission and requesting that the information being forwarded be given prominent placement in the newspaper so that as large a segment as possible of the public in general may be apprised of the increase proposal.

(2) A description in language sufficient to apprise a reader who is not an expert in transportation matters, of the nature of the proposal including the amount of increase, the proponent(s), its geographic scope, and in general terms any holddowns, flagouts, or exceptions.

(3) A statement summarizing the supporting rationale for the increase including why it is needed, what it will accomplish, and in general terms accounting for the presence of the holddowns, flagouts, and exceptions.

(4) A statement indicating that copies of the proposal and supporting evidentiary material have been forwarded to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and indicating that the public may obtain copies of these documents by writing to "(Here the name and address of the carrier of publishing agent will be inserted)."

(b) *Summary.* A summary of the increase proposal, drafted in language directed at a reader who is not an expert in transportation matters, will be prepared in sufficient detail to apprise such a reader of the nature of the increase proposal. Pursuant to this purpose, included within the contents of the summary will be the following:

(1) A general description of the essentials of the increase proposal including its proponent(s), effective date, geographic scope, the amount of the increase, and a general description of holddowns, flagouts, and exceptions.

(2) A summary of the supporting rationale for the increase including why it is needed, what it will accomplish and an explanation in general terms for the presence of the holddowns, flagouts, and exceptions.

(3) A statement indicating that copies of the proposal and the entire evidentiary case in support thereof have been forwarded to regional and district offices of the Commission and to the State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and

(4) A statement as follows: "The proposed tariff* contents the only legal terms of the increase binding on the parties" [*"(A)nd/or petition" if applicable].

[1] The prescribed procedures also incorporate changes recently adopted in Ex Parte No. 290 (Sub-No. 1), Procedures—Rail Car. General Increase Proceedings, 349 I.C.C. 22 (1974), and Ex Parte No. 286, Notice of Increases in Frt. Rates and Pass. Fares, 349 I.C.C. 741 (1975).

§ 1102.2 Data and information related to the last prior general increase.

Upon the filing of a petition for authority to publish a general rate increase, the following data and information shall be provided by individual class I line-haul railroads and summarized for each district and all districts combined for the period, beginning with the first calendar quarter after the effective date of the last general increase to and including the last complete calendar quarter ending at least 31 days prior to the filing of a petition for a new general rate increase (hereinafter referred to as the study period); *Provided,* That in the event the study period so determined fails to cover a minimum of one calendar quarter, then the study period shall begin with the effective date of the last general increase and run to and including the last complete month ending at least 31 days prior to the filing of a petition for a new general rate increase: *And further provided,* That in the event that the study period exceeds 18 months, the Commission may, at its discretion, shorten such period to the extent deemed by it to be necessary, either upon its own motion or upon petition filed by the railroads.

(a) *General data.* The following shall be submitted for line-haul traffic:

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues, ton-miles, and revenue per ton-mile based on rates actually applied during the study period.

(3) Total actual revenue, ton-miles, and revenue per ton-mile for the corresponding period (calendar quarters) in the year preceding the study period.

(4) Explanation of any significant differences between items (2) and (3), such as changes in traffic levels, average length of haul, traffic mix, rate changes, and other relevant factors.

(5) Total increase in revenues obtained by application of the last authorized general increase (item (2) less item (3)).

(b) *Accessorial services data.* The following shall be submitted for those special and accessorial services such as collection on delivery and wharfage charges listed on page 13 of Tariff of Increased Rates and Charges, X–281–A:

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues based on charges actually applied during the study period.

(3) Total actual revenues for the corresponding period (calendar quarters) in the year preceding the study period.

(4) Total increase in revenues obtained by application of the last authorized general increase (item (2) less item (3)).

(c) *Availability of underlying data.* All underlying data used in preparation of the material outlined above shall be made available for inspection upon reasonable request in writing, and shall be furnished by the railroads to the Commission upon request. The underlying data shall be made available also at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

§ 1102.3 Financial and revenue need data.

The railroads shall submit the data required in Schedules A, B, and I. The purpose of these schedules is to obtain such financial data as will facilitate an analysis of the financial posture and revenue needs of individual petitioning railroads, as well as groups of railroad by district (Eastern, Southern, and Western), and all groups combined, as appropriate. Petitioning railroads shall also submit such evidence as will permit a determination of the cost of debt and equity capital, and the respective amounts of this capital which they need to attract in order to insure their financial stability and their capacity to render service.

§ 1102.4 Cost and revenue data.

(a) The railroads shall submit the cost and revenue data required in Schedule C (in four parts). The purpose of Schedule C is to obtain, for the time periods therein provided, cost and revenue data as appropriate for specified commodities transported by individual railroads in Eastern, Southern, and Western districts, by district totals and for districts combined.

(b) To develop these data, traffic and cost studies will be required. The traffic studies should, among other things, (1) develop the number and kind of traffic service units to which the appropriate service unit costs should be applied, and (2) develop the actual revenues associated with the transportation of the specific commodities. The cost study should develop the appropriate service unit costs referred to in subparagraph (1) of this paragraph.

(c) Both the traffic and the cost study should be developed for the same year. The study year shall be referred to as the "Base Period (Year)-Actual." That year shall be the four-quarter period ending no later than 4 months prior to the filing date of the proposed rate increase.[2]

(d) The traffic study shall include a probability sampling of the actual traffic handled during identical time periods for each study carrier (each class I line-haul railroad) and shall be statistically valid at the individual study carrier level. The sample shall be taken according to acceptable standards of probability sampling principles and practices. The carriers shall explain and evaluate the probability sample from the standpoint of purpose, sample design (including explanation of estimation procedure and disclosure of sampling errors for derived characteristics), quality control aspects involved in processing and tabulating data, and any statistical analysis performed on the sampled data.[3]

(e) The cost study shall be based on service unit costs developed for each individual study carrier through the use of Rail Form A costing procedures. These service unit costs shall be appropriately adjusted, if necessary, to reflect the transportation characteristics of the specified commodities and shall be applied to the respective individual carrier's traffic service units as determined from its traffic study. Since the determination of relative revenue/cost relationships among the various commodity movements is important, the Rail Form A costing technique is required. However, this requirement does not preclude the use of other uniform costing procedures the result of which may be submitted in addition to the Rail Form A costs. In this event appropriate explanation of the principles and procedures must be furnished.

(f) The carriers shall be allowed to use appropriate mileage or per diem rates, or both, increased for general overhead for the car(s) being sampled, as an alternative to Rail Form A car costs.

(g) The cost study shall be based on two levels of cost, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). The latter level is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, *Rules to Govern Assembling and Presenting Cost Evidence,* 337 I.C.C. 298, but excludes return on investment. The F.A.E. level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes)

(h) Traffic and cost study data shall be developed for the following time periods; (1) the "Base Period (year)-

[2] The following illustrates the base period (year)-actual depending on when the proposal is filed. These dates would apply in all schedules where the term base period (year)-actual is used unless specified otherwise.

Filing date of proposed increase	*Base period (year)-actual (four quarter period ending)*
January	June 30, preceding year.
February	September 30, preceding year.
March	Do.
April	Do.
May	December 31, preceding year.
June	Do.
July	Do.
August	March 31, filing-month year.
September	Do.
October	Do.
November	June 30, filing-month year.
December	Do.

[3] Although not adopted by the Commission, attention is called to a staff report "Guidelines for the Presentation of the Results of Sample Studies," February 1, 1971, available from the Superintendent of Documents, Washington, D.C.

Actual" as defined in paragraph (c) of this section and (2) the "Present Proforma Year" which shall be the "Base Period (Year)—Actual" restated to reflect the wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the proposed general increase. The time periods identified above are identical to those in Schedule B, Part I and Schedules D through G.

§ 1102.5 Employment, wage, productivity, and rate data.

(a) The class I railroads shall submit the wage, operations, productivity and other statistical data required in Schedules D through G. A major purpose for the supporting data required in these schedules is to measure the validity of the total increases in railway operating expenses shown in Schedule B, pro forma year over the base year-actual. Since Schedules E and F represent only the major segments of railway operating expenses, it is realized that the totals of those schedules will not reconcile to Schedule B, line 2. Data required in Schedules D through G are required only by district groupings of carriers in the Eastern, Southern, and Western districts, and for all districts combined. The time periods required to be used are the base year-actual, the pro forma period (the "base year-actual" restated to reflect conditions prevailing on or near the effective date of the proposed rate increase).

(b) The class I railroads shall also submit the data required by Schedule H which develops specific rate and revenue information to measure the revenue impact of holddowns and other exceptions proposed by the carriers.

§ 1102.6 Affiliate data.

Each railroad shall submit details of transactions with its parent, subsidiary, or affiliated companies in each of the last 3 calendar years as follows: (a) Advances whether in cash or property; (b) encumbrances of railroad assets or the assets of a parent, and affiliate, or subsidiary for noncarrier purposes; and (c) any other monetary or property transactions, including the payment and receipt of dividends. Normal transactions, such as interline settlements, and any other considered necessary to and normally considered in the course of railroad business, need not be reported for the purpose of this particular section. In addition to these data, Schedule J shall be submitted as a composite district and nationwide basis. The purpose of this schedule is to facilitate an assessment of the effect on the carriers' profits of transactions with affiliates.

§ 1102.7 Official notice.

Official notice will be taken of all the railroads' annual and quarterly reports on file with the Commission.

§ 1102.8 Service.

(a) The detailed information called for herein shall be in writing and shall be verified by a person or persons having knowledge thereof. The original and 24 copies of each verified statement for the use of the Commission shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent by first-class mail to each of the regional offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection.

(b) A copy of each statement shall be mailed by first-class mail to each party of record in the last formal proceeding concerning a general rate increase nationally or in the affected area or territory, and to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal, and that fact shall be evidenced by a certificate of service filed with the petitions. Where service is made by mail, the statements shall be mailed in time to be received on the date the original is filed with the Commission. A copy of such statement shall be furnished to any interested person upon request.

(c) A copy of the news release, whose contents are described in § 1102.1 above, will be transmitted to the major news wire services and the principal newspaper of general circulation in the capitol and four largest cities of all States served by the carrier and affected by the proposal. For the purpose of this requirement, the principal newspaper of general circulation is that newspaper of general circulation published in a city having the largest average daily circulation. Where service is made by mail, the news release shall be mailed in time to be received on the date the original is filed with the Commission.

(d) The fact of service as herein required shall be evidenced by a certificate of service filed with the petition.

§ 1102.9 Availability of underlying data.

All underlying data used in preparation of the material outlined above shall be made available in the office of the party serving such verified matter during usual office hours for inspection by any party of record desiring to do so, before hearing, or when no hearing is held, and shall be made available to the Commission upon request therefore. The underlying data shall also be made available at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

Carrier: _____ Ex Parte
District: _____ No. 290
Nationwide: ☐ Appendix

SCHEDULE A

Selected financial data (dollars in thousands)

Line No.	Item (a)	Source1/ (b)	Calendar Yr 19 (c)	Calendar Yr 19 (d)	Base Year-Actual to (e)
1	Net income	A R Sch 300			
2.	Depreciation & retirements-road	A R Sch 322, Total Depr. & Retire Cols			
3.	Depreciation & retirements-equipment	A R Sch 330, Total Depr & Retire Cols			
4	Long-term debt due within one year	A R Sch 200, Acct. 764			
5	Long-term debt due after one year	A.R. Sch. 200, Total of Accts 765, 767, 766, 766 5, 768, 769, 770 1 & 770 2			
6	Long-term debt due after one year2/	See L 5			
7	Income available for fixed charges	A R Sch 300			
8	Fixed and contingent charges	A R. Sch 300, Add Accts 546, 547 & 548			
9	Railway operating expenses	A R. Sch 300, Acct. 531			
10.	Railway operating revenues	A R Sch 300, Acct 501			
11	Net railway operating income	A R Sch 300, footnote			
12	Provision for deferred taxes	A R Sch. 300, Acct 557			
13	Equity in earnings (losses) of affiliated companies	A R Sch 300, Income from affiliated Cos.			
14.	Total current assets	A R Sch. 200, Total current assets			
15.	Total current liabilities	A R Sch 200. Total current liabilities			
16.	Shareholders' equity	A R Sch 200, Total (net) stockholders' equity			
17.	Shareholders' equity2/	See L. 6			
18.	Cash dividends paid	A R. Sch 305, Acct 623			
19	Interest expense, amortization of discount on funded debt, contingent interest and release of premiums on funded debt	A.R. Sch. 300, Accts 546 (int. exp.) + 547 + 548+ 546 (contingent interest) - 517			
20	Net investment in railroad property	(A.R. Sch. 200, Accts. 701 + 712) + (Sch 211 N-1, line 39, col. (d) minus col (e)			
21	Net investment in railroad property3/	See L 20			
22.	Current ratio	L 14 ÷ L. 15			
23.	Dividend pay-out ratio	L 18 ÷ L. 1			
24	Rate of return on net investment in railroad property	L 11 ÷ L 21			
25.	Rate of return on shareholders' equity	L 1 ÷ 17			
26.	Cash flow	Ls 1 thru 3 + 12 - L 13			
27.	Throw-off to debt ratio, current maturities	L 26 ÷ L 4			
28.	Capital structure ratio	L 5 ÷ ! 5+ L. 16			
29	Rate of return on total capitalization	L 1 ÷ L 19 ÷ L 6 + L 17			
30.	Fixed and contingent charge coverage (times)	L 7 ÷ L 8			
31	Ratio ry. operating expenses (includes net rents) to ry. operating revenue	L 9 ÷ L 10			

1/ Annual report sources refer to 1978 proposed Annual Report Form R-1 For years subsequent to 1978, use the comparable annual report sources. For years prior to 1978, see Conversion Table for Schedule A

2/ Show average of beginning and end-of-year figure

3/ Show average of beginning and end-of-year figure Annual Report Sch 211N provides year-end data only. Refer to prior annual reports for comparable beginning-of-year data.

SCHEDULE A CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

Ex Parte No. 290
Appendix

	PROPOSED SCHEDULE A	System of Accounts Effective 1/1/78	System of Accounts Prior to 1/1/78
Line No.	Item	Source: Proposed 1978 A.R. Form R-1	Comparable Data from 1977 Annual Report, R-1
1.	Net Income	A.R. Sch. 300	A.R. Sch. 300, L. 69, Col. (b)
2.	Depreciation & retirements-road	A.R. Sch. 322, Total Depr. & Retire. Cols.	A.R. Sch. 320, L. 47 + L. 48, Col. (b)
3.	Depreciation & retirements-equipment	A R Sch. 330, Total Depr. & Retire. Cols.	A.R. Sch. 320, L. 81 + L. 82, Col. (b)
4.	Long term debt due within one year	A.R. Sch 200, Acct. 764	A.R. Sch. 200, L. 65
5.	Long-term debt due after one year	A.R. Sch. 200, Total of Accts. 765, 767, 766, 766.5,768,769,770.1 & 770.2	A.R. Sch. 200; L. 74
6.	Long-term debt due after one year (avg. beg. and end-of year)	See L. 5	See L. 5, above
7.	Income available for fixed charges	A.R. Sch. 300	A.R. Sch 300, L 48 - L. 49 + L. 5 (Acct. 533) + Sch. 350, total income taxes, L. 59
8.	Fixed and contingent charges	A.R. Sch. 300 add Accts. 546,547 and 548	A.R. Sch. 300, add Accts 546, 547, and 548
9.	Railway operating expenses	A R. Sch. 300, Acct. 531	A.R Sch. 300, L. 2 - L. 13 + L. 20 - L. 24 + L. 49 + (Sch. 350 L. 64 - L. 59)
10.	Railway operating revenues	A.R. Sch. 300, Acct. 501	A.R. Sch. 300, Acct. 501, L. 1, Col. (b)
11.	Net railway operating income	A.R. Sch. 300, footnote	A.R Sch. 300, L. 22 minus taxes applicable to Accts. 560 & 562 (footnote)
12.	Provision for deferred taxes	A.R. Sch. 300, Acct. 557	A.R. Sch. 300, Acct. 533, L. 5
13.	Equity in earnings (losses) of affiliated companies	A.R. Sch. 300, Income from affiliated cos.:Dividends/Equity in undistributed earnings (losses)	A.R. Sch. 300, L. 36

SCHEDULE A CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

Ex Parte No. 290
Appendix

	PROPOSED SCHEDULE A	System of Accounts Effective 7/1/78	System of Accounts Prior to 1/1/78
Line No.	Item	Source: Proposed 1978 A.R. Form R-1	Comparable Data from 1977 Annual Report, R-1
14.	Total current assets	A.R. Sch. 200, Total current assets	A.R. Sch. 200, L. 15
15.	Total current liabilities	A R. Sch. 200, Total current liabilities	A.R. Sch. 200, L. 64 + Acct. 764, L. 65
16.	Shareholders' equity	A R. Sch 200, Total (Net) stockholders' equity	A.R. Sch. 200, L. 99
17.	Shareholders' equity (avg. beg. and end-of-year)	See L. 16	See L. 16, above
18.	Cash dividends paid	A.R. Sch. 305, Acct. 623	A.R. Sch. 308, Acct. 623
19	Interest expense, amortization of discount on funded debt, contingent interest and release of premiums on funded debt	A R. Sch 300, Accts 546 (int. exp.) + 547 + 548 + 546 (contingent int) - 517	A.R Sch. 300, L 50 + 51 + 52 + 53 + 56 - L. 31
20.	Net investment in railroad property	(A.R. Sch. 200, Accts. 701 + 712)+(Sch 211 N-1, Line 39, col (d) minus col. (e)	(A.R Sch. 200, L. 1 + L. 12) + (A.R Sch. 211 N-1, Line 39, col. (d) minus col (e)
21.	Net investment in railroad property (avg. beg. and end-of-year)	See L. 20	See L. 20, above

Districts: ____
Nationwide: ☐

SCHEDULE B (PART I)

Ex Parte No. 290
Appendix

Income statement (dollars in thousands)

Line No.	Item (a)	Source2/ (b)	Base Year-Actual to			Present Pro Forma Year-Freight Service		Forecast Year-Freight Service to	
			Total all Services (c)	Total Freight Service (d)	Total Passenger Service (e)	Based on Present Expenses & Revs., (f)	Based on Present Exps & Proposed Revs. (g)	Based on Present Exps. & Revs. (h)	Based on Present Exps. & Proposed Revs. (i)
1.	Railway operating revenues	A R. Sch. 300, Acct. 501							
2.	Railway operating expenses	A R. Sch. 300, Acct. 531							
3.	Net revenue from railway operations	A R Sch 300							
4.	Total other income	A R Sch 300							
5	Total miscellaneous deductions	A R. Sch. 300							
6	Net other income & deductions (dr)/cr	L 4 - L. 5							
7.	Income available for fixed charges	A R Sch. 300							
8.	Total fixed charges	A R. Sch. 300							
9	Income after fixed charges	A R. Sch. 300							
10.	Contingent interest	A R. Sch. 300							
11.	Unusual or infrequent items (dr)/cr.	A R. Sch. 300, Acct. 555							
12	Income (loss) from continuing operations (before income taxes)	A R. Sch. 300							
13	Income taxes on ordinary income	A R. Sch. 300, Acct. 556							
14.	Provision for deferred income taxes	A R Sch 300, Acct 557							
15	Income (loss) from discontinued operations	A R. Sch. 300, Accts. 560 + 562							
16.	Ordinary income	L 12. - L 13 - L. 14 + L. 15							
17	Total extraordinary items and accounting changes (debit)/credit	A.R. Sch. 300, Accts. 570 + 590 + 591 + 592							
18.	Net income	A R. Sch. 300							
19.	Net railway operating income	L. 8 of footnote 1/							

1/ Computation of net railway operating income:

1. net revenue from ry. operations	Sch. B, L. 3
2 Income taxes on ordinary income	Sch. B, L. 13
3. Provision for deferred income taxes	Sch B. L. 14
4 Taxes applicable to income (loss) from operations of discontinued segment	A.R. Sch. 300, footnote
5. Taxes applicable to gain (loss) on disposal of discontinued segment	A R Sch 300, footnote
6 Income from lease of road & equip	A.R. Sch. 300, footnote
7. Rent for leased roads & equip.	A.R. Sch. 300, footnote
8 Net railway operating income	L. 1 - L. 2 - L. 3 - L. 4 - L. 5 + L. 6 - L.7 (footnote 1/)

2/ Annual report sources refer to 1978 proposed Annual Report Form R-1. For years subsequent to 1978, use the comparable annual report sources. For years prior to 1978, see Conversion Table for Schedule B.

Ex Parte No. 290
Appendix

SCHEDULE B CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

	PROPOSED SCHEDULE B	System of Accounts Effective 1/1/78	System of Accounts Prior to 1/1/78
Line No.	Item	Source: Proposed 1978 A.R. Form, R-1	Comparable Data from 1977 A.R., R-1
1.	Railway operating revenues	A.R. Sch. 300, Acct. 501	See Conversion Table, Sch. A, L. 10
2.	Railway operating expenses	A.R. Sch. 300, Acct. 531	See Conversion Table, Sch. A, L. 9
3.	Net revenue from railway operations	A.R. Sch. 300	L. 1 - L. 2 above
4.	Total other income	A.R. Sch. 300	A.R. Sch. 300, L. 37 - L. 24
5.	Total miscellaneous deductions	A.R. Sch. 300	A.R. Sch. 300, L. 47
6.	Net other income & deductions (debit)/credit	L. 4 - L. 5	L. 4 - L. 5, above
7.	Income available for fixed charges	A.R. Sch. 300	See Conversion Table, Sch. A, L. 7
8.	Total fixed charges	A.R. Sch. 300	A.R. Sch. 300, L. 54 - L. 49
9.	Income after fixed charges	A.R. Sch. 300	L. 7 - L. 8, above
10.	Contingent interest	A.R. Sch. 300	A.R. Sch. 300, L. 56
11.	Unusual or infrequent items (debit)/credit	A.R. Sch. 300, Acct. 555	A.R. Sch. 300, L. 57
12.	Income (loss) from continuing operations (before income taxes)	A.R. Sch. 300	L. 9 - L. 10 + L. 11
13.	Income taxes on ordinary income	A.R. Sch. 300, Acct. 556	A.R. Sch. 350, L. 59
14.	Provision for deferred income taxes	A.R. Sch. 300, Acct. 557	A.R. Sch. 300, L. 5

Ex Parte No. 290
Appendix

SCHEDULE B CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

Line No.	PROPOSED SCHEDULE B	System of Accounts Effective 1/1/78	System of Accounts Prior to 1/1/78
15.	Income (loss) from discontinued operations	A.R. Sch. 300, Accts. 560 + 562	A.R. Sch. 300, L. 61
16.	Ordinary income	L. 12 - L. 13 - L. 14 + L. 15	L. 12 - L. 13 - L. 14 + L. 15, above
17	Total extraordinary items and accounting changes (debit)/credit	A.R. Sch. 300, Accts 570 + 590 + 591 + 592	A.R. Sch. 300, L. 68
18.	Net income	A.R. Sch. 300	A.R. Sch. 300, L. 69
19.	Net railway operating income	L. 8 of footnote 1/	L. 8 of footnote 1/

1/			
	1 Net revenue from ry. ops.	Sch. B, L. 3	Sch. B, L. 3
	2 Income taxes on ord. income	Sch. B, L. 13	Sch. B, L. 13
	3. Provision for deferred income taxes	Sch. B, L. 14	Sch. B, L. 14
	4 Taxes applicable to income (loss) from operations of discontinued segment	A.R. Sch. 300, footnote	A.R. Sch. 300, footnote
	5. Taxes applicable to gain (loss) on disposal of discontinued segment	A.R. Sch. 300, footnote	A.R. Sch. 300, footnote
	6 Income from lease of road & equip.	A R. Sch. 300, footnote	A.R. Sch. 300, Acct. 509, L. 24
	7 Rent for leased roads & equip.	A.R. Sch. 300, footnote	A.R. Sch. 300, Acct. 542, L. 49
	8 Net railway operating income	Footnote 1/ L. 1 - L. 2 - L. 3 - L. 4 - L. 5 + L. 6 - L. 7	Footnote 1/ L. 1 - L. 2 - L. 3 - L. 4 - L. 5 + L. 6 - L. 7

Schedule B (part I)

Purpose: Schedule B (part I) is designed to provide the Commission with an indication of the carriers' past, present, and forecasted income statement data which will facilitate an analysis of their financial stability and revenue need position.

Instructions:

Schedule B (part I) should report income statement data for class I carriers only. A separate Schedule B (part I) should be prepared for each of the following:

(1) composite district class I carriers.

(2) composite nationwide class I carriers, if appropriate.

Time frame requirements:

Columns c, d, and e—Data reported in columns c, d, and e should be based on the most recent four-quarter period ending 4 months prior to the filing month of the proposed increase. "Quarter period" is defined as a calendar year quarter (*e.g.*, January–March, October–December, et cetera). The data reported in these columns will always be based on a 12-month period ended either on March 31, June 30, September 30, or December 31. If, for example, the proposed increase is filed during the month of November 1975, data reported in columns c through e should be based on the 12 months ended June 30, 1975. It is possible that the data reported in these columns will correspond to a calendar year. If, for example, the proposed increase is filed during the month of May 1975, data in these columns should be based on the 12 months ended December 31, 1974 or calendar year 1974.

The data reported in column c of Schedule B should tie in with the data reported in column e of Schedule A.

Columns f and g—Columns f and g should report pro forma year income statement data for the carriers' freight service *only*.

It should be kept in mind that the pro forma year data does not represent a forecast. It represents the results of 12 months of operation at cost and rate levels existing at a specific time.

The data reported in column f should be the base year actual (column d) restated to reflect conditions (wage, price, productivity, et cetera) prevailing on or near the effective data of the proposed rate increase. Revenues in column f should be based on rates and charges which are currently in effect.

The data reported in column g should also be the base year actual (column d) restated to reflect conditions (wage, price, productivity, et cetera) prevailing on or near the effective date of the proposed rate increase. Unlike column f, however, revenues in column g should be based on the proposed rates.

The sum of money reflected in column g should be supported by evidence that it is a just and reasonable amount. This evidence should enable the Commission to find that the proposed rate increase:

(a) is cost justified and does not reflect future inflationary expectations.

(b) takes into account expected and reasonable productivity gains.

(c) is not excessive in terms of the carriers' ability to provide adequate and safe service or to provide for necessary expansion to meet future requirements for transportation services.

(d) is not excessive in terms of the rate of return needed by the carriers to attract debt and equity capital at reasonable costs.

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Appendix

SCHEDULE B (PART II)

Carrier:_____

Analysis of total rents payable (dollars in thousands)

[illegible]	Respondents percent common stock ownership in lessor	Nature of lessor's business (if affiliated)	Percent respondents rentals to lessor's total sales (if affiliated)

Schedule B (part II)

Purpose: Schedule B (part II) is designed to identify the various enterprises from whom the railroads lease equipment and the nature of their relationship with the carriers.

Instructions: Schedule B (part II) should report rents payable data for class I carriers only. A separate Schedule B (part II) should be submitted for each individual class I carrier.

Schedule B (part II) will be restricted to only those lessors in which the respondent has some affiliation. Transactions aggregating less than $30,000 need not be reported in this Schedule.

Time frame requirements: The data reported in this schedule should be based on the most recent calendar year available.

COMMODITY LIST FOR SCHEDULE C

The commodity list herein is derived from the exhibits and verified statements submitted by the Special Projects Council (SPC) to the Interstate Commerce Commission, in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure. Commodity groups selected for the traffic study herein (Schedule C) are noted by asterisks.

The commodity list prepared effective with the Standard Transportation Commodity Code (STCC) classification on January 1, 1972, has been updated to reflect STCC No. 1-C, effective January 1, 1975, including Supplement No. 3.

In addition, the recyclable commodities[1] investigated in Ex Parte No. 310, Investigation of Freight Rates for the Transportation of Recyclable or Recycled Materials, served February 4, 1977, have also been included.

[1] Where competitive relationships were established with virgin and recyclable materials, the virgin materials have also been included.

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Appendix

Additional Commodities to be Included in Attachment I to Appendix II of the Report and Order in Ex Parte 290

	SPC Commodity Group No.	Description	STCC Code Conversions 1975
	16	Nonferrous concentrate (excl. copper concentrate)	
***	16.1	Copper concentrate	10 212
***	31.1	Bakery refuse	20 511 18
***	48.1	Shavings or sawdust	24 293
***	89.1	Reclaimed rubber	30 3
***	89.2	Rubber or plastic scrap or waste	40 26
***	91.1	Cullet	32 299 24
***	118.1	Blast furnace products	33 119
***	119.0	Copper matte	33 312
***	119.1	Lead matte	33 322
***	119.2	Zinc dross and residue	33 332
***	119.3	Aluminum residue	33 342
***	119.4	Misc. nonferrous metal residue	33 398
***	119.5	Ashes	40 1
***	119.6	Brass, bronze, copper or alloy scrap	40 212
***	119.7	Lead, zinc or allow scrap	40 213
***	119.8	Aluminum or alloy scrap	40 214
***	119.9	Tin scrap	40 219 60
***	120	Textile waste	22 941, 22 973, 22 994, and 40 22
***	122.5	Municipal garbage	40 291 14
***	121	Paper waste or scrap	40 214, 40 23
***	123	Shipping containers or devices returned empty	42 1, 34 912
***	123.1	Beverage containers returned empty	42 111 42
***	123.2	Bags, old	41 114 34 and 41 115 80

SCHEDULE C-1

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Appendix

Variable costs (dollars) for base period (year)—actual, by commodity and by district[4]

*Commodity: STCC*_____

Line No.	District	Total single line and interline	Single line	Interline intra-district	INTERLINE		INTERDISTRICT			
					Total	East-Sou	East-West	Sou-East	Sou-West	West-East	West-Sou
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	*Eastern district*										
2.	*Southern district*										
3.	*Western district*										
4.	*Total all districts*										

[4]See explanation following Schedule C-1.

Fully allocated expences (dollars) for base period (year)—actual by commodity and by district[4]

*Commodity: STCC*_____

1.	*Eastern district*										
2.	*Southern district*										
3.	*Western district*										
4.	*Total all districts*										

[4]See explanation following Schedule C-1.

Revenues (dollars) for base period (year)—actual by commodity and by district[4]

*Commodity: STCC*_____

1.	*Eastern district*										
2.	*Southern district*										
3.	*Western district*										
4.	*Total all districts*										

[4]See explanation following Schedule C-1.

Ex Parte No. 293
Appendix

SCHEDULE C-3

Variable costs (dollars) for present proforma year, by commodity and by district[4]

*Commodity: STCC*_____

Line No.	District	Total single line and interline	Single line	Interline intra-district	INTERLINE		INTERDISTRICT				
					Total	East-Sou	East-West	Sou-East	Sou-West	West-East	West-Sou
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	*Eastern district*										
2.	*Southern district*										
3.	*Western district*										
4.	*Total all districts*										

*See explanation following Schedule C-4

Fully allocated expenses (dollars) for present proforma year, by commodity and by district[4]

*Commodity: STCC*_____

1. *Eastern district*
2. *Southern district*
3. *Western district*
4. *Total all districts*

*See explanation following Schedule C-4

Present revenues (dollars) for present proforma year, by commodity and by district[4]

*Commodity: STCC*_____

1. *Eastern district*
2. *Southern district*
3. *Western district*
4. *Total all districts*

*See explanation following Schedule C-4

Proposed revenues (dollars) for present proforma year, by commodity and by district[4]

*Commodity: STCC*_____

1. *Eastern district*
2. *Southern district*
3. *Western district*
4. *Total all districts*

*See explanation following Schedule C-4

SCHEDULE C-3

*Revenue/variable cost ratios for base period (year)—actual, by commodity and by district**

(In percent to 1 decimal)

*Commodity: SICC*_____

Line No.	District	Total single line and interline	Single line	Interline intra-district	INTERLINE			INTERDISTRICT			
					Total	East-Sou	East-West	Sou-East	Sou-West	West-East	West-Sou
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	*Eastern district*										
2.	*Southern district*										
3.	*Western district*										
4.	*Total all districts*										

*See explanation following Schedule C-4
Ratios based on data in Schedule C-1.

SCHEDULE C-4

*Revenue/variable cost ratios for present proforma year by commodity and by district—revenues at present and proposed levels**

(In percent to 1 decimal)

*Commodity: SICC*_____

1.	*Eastern district*	Part I. *Ratios based on present revenues*
2.	*Southern district*	
3.	*Western district*	
4.	*Total all districts*	
		Part II. *Ratios based on proposed revenues*
5.	*Eastern district*	
6.	*Southern district*	
7	*Western district*	
8.	*Total all districts*	

*See explanation following Schedule C-4
Ratios based on data in Schedule C-2

Purpose and explanation of Schedule C. The purpose of Schedules C-1 through C-4 is to obtain cost and revenue data for specified commodities, separated between single line and interline, transported by railroads in Eastern, Southern, and Western districts, by district totals and for all districts combined, as appropriate. Costs and revenues should be provided for two time periods, namely, (1) base period (year)-actual (Schedule C-1), and (2) present pro forma year, reflecting present costs and both present and proposed revenues (Schedule C-2). Schedules C-3 and C-4 require revenue/variable cost ratios, by commodity and by districts. These ratios are developed from data provided in Schedules C-1 and C-2, respectively.

(a) Time periods: Base period (year)-actual and present pro forma period. The study year shall be referred to as the "Base Period (Year)-Actual." That year (except as noted below) shall be the four-quarter period ending no later than 4 months prior to the filing date of the proposed general increase.

Traffic and cost study data for the base period (year)-actual shall be updated to reflect wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the proposed increase. The time period reflecting these data, stated on an annual basis, shall be referred to as the "Present Pro forma Year."

If an increase is filed during the period from August 1, 1978 through April 30, 1979, however, the base period (year)-actual should be based on 1977 calendar year results (cost and traffic) updated to reflect the required present pro forma year.

(b) Cost levels: Variable and fully allocated expenses.-Costs, for Schedule C purposes, shall be based on two levels, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). This level of costs is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, Rules to Govern Assembling and Presenting of Cost Evidence, but excludes return on investment. The F.A.E. level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes). Both levels of cost must be furnished.

(c) Revenues. Freight revenues for the base period (year)-actual, and the present pro forma year, including both present and proposed revenues, shall include revenues obtained from all rates and charges and not only that associated with the line-haul traffic.

(d) Commodity. STCC No. The commodities or commodity classes to be used shall be at least those set forth in Attachment I, hereto. The sample may be expanded to include other commodities if it is so desired. In addition, all other commodities or commodity classes not shown individually shall be grouped and shown in a "Total Carload Traffic" category.

(e) Interline intradistrict. This is interline traffic in which the entire through movement is handled only by carriers assigned to the same district Eastern, Southern, or Western) as the reporting carrier.

(f) Interline Interdistrict. This is interline traffic in which a portion of the entire through movement is handled by a carrier or carriers assigned to a district other than the one to which the reporting carrier is assigned. The revenue and cost data required in this schedule, should be based on the actual divisional interchange point irregardless of the territorial border point.

Ex Parte No. 290
Appendix

SCHEDULE D*

Selected employment statistics
District (U.S., East, South, West)_____

Line	Item	Source[1]	Base Period[4] (year-actual)	Pro forma year[3/5]
1.	Total number of employees----------	Form B, col. 2, line 909		
2.	Total service hours----------	Form A, col. 7, line 907 & Form B, col. 8, line 908		
3.	Straight time paid for----------	" A, " 4, " 907 & Form B, col. 5, line 908		
4.	Overtime paid for----------	" A, " 5, " 907 & Form B, Col. 6, line 908		
5.	Vacations and other allowances----------	" A, " 6, " 907 & Form B, col. 7, line 908		
6.	Total "Freight" employees----------	" B, " 2, " 909[2]		
7	Total "Freight" service hours----------	" A, " 7, " 907 & Form B, col. 8, line 908[2]		

[1]ICC Wage Statistics, Form A or B, unless otherwise indicated.
[2]"Freight" in Schedules E, F, and G refers to total Form A and Form B, less the following lines; 12, 67, 84, 85, 86, 87, 95, 96, 97, 99, 100, 101, 104, 111, 112, 115, 116, 121, 125.
[3]Show annualized number of service hours or employees based on prevailing employment levels at or near the filing date of the proposed increase.
[4]Base period-(year actual)-shall be that four quarter period ending no later than four months prior to the filing date of the proposed rate increase.
[5]Pro forma year-shall be the "base period-actual" restated to reflect conditions prevailing on or near the effective date of the proposed rate increase.
*Purpose and explanation follows Schedule G.

Ex Parte No. 290
Appendix

SCHEDULE E*

Selected compensation and wage statistics
District (U.S., East, South, West)_____

Line No.	Item	Source[1]	Base Period[4] (year actual)	Pro forma year[3]
1.	Total compensation----------	Form A, col. 11, line 907 & Form B, col. 12, line 908		
2.	Average compensation per hr--------	Line 1 ÷ Sched. D, line 2		
3.	Straight time paid for----------	Form A, col. 8, line 907 & Form B, col. 9, line 908		
4.	Overtime compensation----------	Form A, col. 9, line 907 & Form B, col. 10, line 908		
5.	Vacation & other allowances--------	Form A, col. 10, line 907 & Form B, col. 11, line 908		
6.	Total Freight compensation----------	Form A, col. 11, line 907 & Form B, col. 12, line 908[2]		
7	Wage increases (percent or cents per hr.) paid or due during period, date from which due, and total service hours effected--by labor contract.[3]	Estimated from labor awards and Forms A and B service hours by reporting division or job classification.		
8.	Cost of wage increase during period-	(4)		
9.	Employee compensation chargeable to operating expense.	AR Sched. 320, line 183		

[1]ICC Wage Statistics Forms A and B unless otherwise indicated. Base all compensation estimates on respective employment levels and service hours in Schedule D taking into account relative changes among employee groups affected by the various labor contracts; underlying work papers should be available for inspection by Commission if necessary.
[2]See Schedule D, footnote 3.
[3]Use additional pages if necessary.
[4]Line 7 wage increases x respective service hours affected in year in question. For periods less than 1 year estimate applicable service hours during period in question represent of the total for the year.
*See explanation following Schedule G.

Schedule F*

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Appendix

Nonwage employment costs district (U.S., East, South, West)_____

Line No.	Item	Source	Base period[1] (year-actual)	Pro forma year[1]
1.	Health and welfare contribution (general health and welfare, dental plan, other)	Sum of Annual Report Form R-1, Sch. 320, col. (b), Accounts 277, 335, 359, 409, 449, 456		
2.	Increased cost of health and welfare benefits per employee paid or due during period under labor contracts.	Labor contract awards		
3.	Increase in health and welfare cost over previous period.	Line 2 x Schedule D, line 1 previous year[1]		
4.	Health and welfare contribution attributable to freight service.	Ratio of "Freight" to total employees, line 1 x (schedule D, line 6÷ line 1)		
5.	Payroll taxes	Annual Report Form R-1, schedule 350, line 60 + 61, Old Age Retirement (including Medicare and supplemental annuities) and Unemployment Insurance only.		
6.	Increased payroll tax rates applicable to the period.	Appropriate tax law provisions		
7.	Increase in payroll taxes over previous year	(2) (3)		
8.	Payroll taxes attributable to freight service	Ratio of "Freight" to total compensation, line 8 x (Schedule E, line 6÷1)		
9.	Cost of pension	Annual Report Form R-1, Schedule 320, Acct. No. 457		
10.	Increase in pension costs over previous period	(2) (3)		
11.	Pension costs attributable to freight service.	Ratio of "Freight" to total compensation, line 11 x (Schedule E, line 6÷1)		
12.	Total nonwage employment costs	Lines 1 + 5 + 9		
13.	Average nonwage employment costs per employee	Line 12÷ Schedule D, line 1		
14.	Increase in nonwage employment costs over previous period.	Line 3 + 7 + 10		
15.	"Freight" nonwage employment costs	Lines 4 + 8 + 11		

[1] Same periods as for Schedule D.

[2] Compute the cost of increases effective after the first 15 days of the period on the basis of employment levels (service hours) for the number of months the increase is in effect.

[3] Take into account employment levels from Schedule D and increased compensation rates in Schedule E. Show methods of computation.

* See explanation following Schedule G.

Ex Parte No. 290
Appendix

SCHEDULE G*

Labor costs and productivity data district (U.S. East, South, West)_____

Line No.	Item	Source	Base period (year-actual)[1]	Pro forma year[1]
1	Net revenue ton-miles	Annual Report Form R-1, Schedule 531, line No. 36.[2]		
2.	Total labor cost	Schedule E line 1 + Schedule F line 12		
3.	Freight labor cost	Schedule E line 6 + Schedule F line 15		
4.	Freight labor cost per net revenue ton-mile	Line 3 ÷ line 1		
5.	Freight service hours	Schedule D line 7		
6.	Net revenue ton-miles per freight service hour	Line 1 ÷ line 5		
7.	Percent change from previous year			
8	Net revenue tons	AR Schedule 531, line 31		
9.	Fuel freight service cost	AR Schedule 320, lines 116 + 122 column (c)		
10.	Materials and supplies expenses	(3)		

[1] Same periods as for Schedule D.

For projected periods, take into consideration expected levels of economic activity, anticipated sources of traffic losses or gains, effect of proposed rate increase intermodal and intramodal competition, et cetera.

[3] Total operating expenses, less employee compensation chargeable to operating expenses, health and welfare benefits, fuel and power, loss and damages, personal injuries, insurance and pensions, and depreciation and retirements.

* See explanation following.

Purpose and explanation of schedules D–G.—Schedules D through G require data on recent, present, and projected levels of employment, wages and fringe benefit costs, and productivity. This information was initially required to effectively implement the regulations promulgated by the Commission in its report and order in Ex Parte No. 280, *Special Procedures for Tariff Filings under the Wage and Price Stabilization Program*, on July 13, 1972. These regulations, particularly, sec. 1311.0(c), required that expected and obtainable productivity be taken into account, as well as labor cost increases.

Schedule D provides data and estimates on present and expected employment levels based on present and past employment and productivity experience, and anticipated traffic and productivity levels. Schedule E provides data on present and expected wage and salary costs, based on provisions of existing labor contracts and projected employment levels. Schedule F provides like information on health and welfare costs, payroll taxes for old age benefits and unemployment insurance, and pension plans. Schedule G summarizes direct and indirect labor costs, and provides a measure of past, present, and projected productivity of freight employees (net revenue ton-miles per service hour) and unit labor costs (total freight labor costs per ton-mile). Productivity change must be measured in terms of material as well as labor. Materials and supply data are needed to measure the increase in these costs which constitutes sound and proper justification for a rate change to reflect unit changes in material costs as well as labor costs.

Estimates based on actual and projected traffic levels are required because of the decline in railroad employment and increases in productivity in recent years, both of which appear to be strongly influenced by the level of freight traffic.

Schedule H

Purpose and Explanation of Schedule H. Essentially the purpose of this schedule is to require data on holddowns and other exceptions[1] for specific commodity groups from the proposed general rate increase.

Specifically the schedule provides (1) for data to identify the specific holddowns and other exceptions proposed in the master tariff and the revenue effect of such variances; (2) justification and demonstration of the need for the exceptions in the rates charged (whether greater or less than the proposed general increase); and (3) the cumulative impact by district on carrier revenues resultant of the holddowns exceptions or other variances.

Summarily, these data which determine the overall revenue yield generated by the proposed general rate increase are considered essential in assessing railroad revenue needs.

[1] Due to the added emphasis on selective rate increases, such exceptions could include variances in the rates charged on specific commodity groups greater than the proposed general rate increase.

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Appendix

SCHEDULE I

Statement of changes in financial position (dollars in thousands)

Carrier:_____

District:_____

Nationwide: ☐

Line No.	Schedule 1/ (a)	Line (b)	Column (c)	Description (d)	Calendar Yr 19__ (e)	Calendar Yr 19__ (f)	Calendar Yr 19__ (g)
				SOURCES OF WORKING CAPITAL			
				Working capital provided by operations:			
1	300	62	(b)	Net income (loss) before extraordinary items			
				Add expenses not requiring outlay of working capital; (subtract) credits not generating working capital:			
2	324	17	(b)	Retirement of nondepreciable property			
3	395	-	-	Loss (gain) on sale or disposal of tangible property			
4	NOTE A	-	-	Add depreciation and amortization expenses			
5	300	5	(b)	Net increase (decrease) in deferred income taxes			
6	300	35	(a)	Net decrease (increase) in parent's share of subsidiary's undistributed income for the year			
7	200	74, 77	(b)-(c)	Net increase (decrease) in noncurrent portion of estimated liabilities			
8				Other (Specify):			
9							
10							
11							
12							
13							
14							
15							
16							
17							
18				Total working capital from operations before extraordinary items			

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Appendix

Statement of changes in financial position (dollars in thousands)-Continued

Carrier:_____

District:_____

Nationwide: ☐

Line No.	Schedule (a)	Line (b)	Column (c)	Description (d)	Calendar Yr 19__ (e)	Calendar Yr 19__ (f)	Calendar Yr 19__ (g)
				Working capital provided by operations (Continued):			
19	300	68	(b)	Extraordinary items and accounting changes			
				Add expenses not requiring outlay of working capital; (subtract) credits not generating working capital:			
20	300	63	(b)	Loss (gain) on extraordinary items			
21	300	65	(b)	Net increase (decrease) in deferred income taxes			
22	300	67	(b)	Cumulative effect of changes in accounting principles			
23				Other (Specify):			
24							
25							
26							
27							
28				Total working capital from extraordinary items and accounting changes			
29				Total working capital from operations (lines 18 and 28)			
				Working capital from sources other than operating:			
30	-	-	-	Proceeds from issuance of long-term liabilities			
31	-	-	-	Proceeds from sale/disposition of carrier operating property			
32	-	-	-	Proceeds from sale/disposition of other tangible property			
33	205	99	(l)	Proceeds from sale/repayment of investments advances			
	206	99	(k)				
34	204	41	(f)	Net decrease in sinking and other special funds			
35	229	15	(e)+(f) -(i)	Proceeds from issue of capital stock			
				Other (specify):			
36							
37							
38							
39							
40							
41				Total working capital from sources other than operating			
42				Total sources of working capital (lines 29 and 41)			

Ex Parte No. 290
Appendix

Statement of changes in financial position (dollars in thousands)-Continued

Carrier:_____

District:_____

Nationwide: ☐

Line No.	Schedule (a)	Line (b)	Column (c)	Description (d)	Calendar Yr. 19__ (e)	Calendar Yr. 19__ (f)	Calendar Yr. 19__ (g)
				APPLICATION OF WORKING CAPITAL			
43	-	-	-	Amount paid to acquire/retire long-term liabilities			
44	305	10	(b)	Cash dividends			
45	211	52	(e)	Purchase price of carrier operating property			
46	-	-	-	Purchase price of other tangible property			
47	205	99	(j)	Purchase price of long-term investments and advances			
	206	99	(i)				
48	204	41	(e)	Net increase in sinking or other special funds			
49	229	15	(j)	Purchase price of acquiring treasury stock			
50	-	-	-	Other (specify):			
51							
52							
53							
54							
55				Total application of working capital			
56				Net increase(decrease) in working capital (line 42 less Line 55) (show computations in Schedule 309S)			

NOTE A: Furnish the actual amount of depreciation and amortization expenses taken during the year. The following can be used as references:

Schedule	Line	Column
322	26	(b)
326	3	(b)
330	9	(b)
214	22	(j)
200	72	(b)-(c)
200	73	(b)-(c)

1/ Annual report sources refer to the 1977 Annual Report R-1. For years subsequent or prior to 1977, use comparable annual report sources.

Schedule I

Purpose: Schedule I is designed to provide the Commission with an indication of the carriers' sources and uses of funds over the recent past.

Instructions: Schedule I should report funds flow data for class I carriers only. A separate Schedule I must be prepared for the following:

(1) Each individual class I carrier.
(2) Composite district class I carriers.
(3) Composite nationwide class I carriers, if appropriate.

The term "funds" for the purpose of this Schedule shall include all assets or financial resources even though a transaction may not directly affect cash or working capital. For example, the purchase of property in exchange for bonds or shares of stock would be an application of funds for investment in property provided by the issue of securities.

Sources and uses of funds should be individually disclosed. For example, outlays for fixed assets should not be reported net of retirements.

Time frame requirements:

Column b.—Data reported in column b should be based on the 3d calendar year preceding the effective year of the proposed rate increase.

Column c.—Data reported in column c should be based on the 2d calendar year preceding the effective year of the proposed rate increase.

Column d.—Data reported in column d should be based on the 1st calendar year preceding the effective year of the proposed rate increase.

The time frame requirements outlined above apply only if the proposed rate increase is effective during the last 6 months of the calendar year. If the proposed rate increase is effective during the first 6 months of the calendar year, the data in columns b, c, and d should be based on the fourth, third, and second calendar years, respectively, preceding the effective year of the proposed rate increase.

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Appendix

District: _____
Nationwide: ☐

SCHEDULE J

Composite affiliate charges to respondents for services rendered

Line No.	Nature of service (a)	Calendar Year 19___ (b)	Calendar Year 19___ (c)	Base year- Actual ___To ___ (d)
1	Management Services			
2	Legal Services			
3	Accounting Services			
4	Procurement of materials, supplies, and equipment			
5	Leasing of Land and Structures			
6	Leasing of equipment			
7	Miscellaneous services			
8	Total charges to respondents			
9	Affiliate revenues derived from services to parties other than respondents			
10	Total affiliate revenues (line 8 & line 9)			
11	Total affiliate income from operations before income taxes			

Schedule J

Purpose: Schedule J is designed to facilitate an assessment of the effect on the carriers' profits of transactions with affiliates.

Instructions: Schedule J should report affiliate data for Class I carriers only. A separate Schedule J must be prepared for the following:

(1) Composite district class I carriers.

(2) Composite nationwide class I carriers, if appropriate.

Affiliate transactions aggregating less than $30,000 need not be reported in this Schedule.

Time frame requirements (same as Schedule A)

Column b—If the rate increase is filed during the first 6 months of the calendar year, the data reported in column b should be based on the 3d calendar year preceding the filing year. If the rate increase is filed during the last 6 months of the calendar year the data reported in column 6 should be based on 2d calendar year preceding the filing year.

Column c—If the rate increase is filed during the first 6 months of the calendar year the data reported in column c should be based on the 2d calendar year preceding the filing year. If the rate increase is filed during the last 6 months of the calendar year the data reported in column c should be based on the 1st calendar year preceding the filing year.

Column d—Data reported in column d should be based on the most recent four-quarter period ending 4 months prior to the filing month of the proposed increase.

Schedule K

Data concerning uneven effects of the increase (including information on commodities, localities, types of traffic, and where necessary individual carriers) and suggestions on the avoidance of possible detrimental effects.

[FR Doc.77-28735 Filed 9-30-77;8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[No: 36556]

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

PART 1249—REPORTS OF MOTOR CARRIERS

Annual Reports and Uniform System of Accounts for Class I and Class II Motor Carriers of Property

AGENCY Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY The Commission has adopted certain revisions to the 1977 annual reports and uniform system of accounts prescribed for Class I and Class II common and contract motor carriers of property. These changes are necessary to obtain consolidated data, reduce the reporting burden on carriers, improve data disclosure, provide a single combined annual report for household goods carriers and revise the system of accounts to accommodate reporting. Revised reporting will be a significant improvement for the motor carrier industry. It includes provisions for substantial reduction in reporting requirements as well as a provision for consolidated reporting that is very desirable from a ratemaking viewpoint and beneficial to the carriers. The general public will not be affected.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone No. (202-275-7331).

SUPPLEMENTARY INFORMATION:

By Notice of Proposed Rulemaking and Order dated June 14, 1977, served July 5, 1977, and published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32814), the Commission made public that it had under consideration major revisions to the 1977 annual reports prescribed for Class I and Class II motor carriers of property 49 CFR 1249 and attendant modification to the Uniform System of Accounts (49 CFR 1207). Revisions provide for (1) "respondent" and "consolidated" reporting, (2) reduction in reporting burden and other modifications to improve data disclosure, (3) separate annual report form for household goods carriers, and (4) revisions to the Uniform System of Accounts prescribed for Class I and Class II common and contract motor carriers of property. Interested parties were given the opportunity to submit their written views and comments by August 5, 1977. This date was subsequently extended to August 22, 1977.

The public notification of proposed rulemaking in the FEDERAL REGISTER provided that any person desiring to participate could do so by filing written statement of facts, views, or arguments by August 22, 1977. Comments were received from 10 motor carriers, 5 industry associations and 2 Certified Public Ac-

countants. Discussions and conclusions reached on specific issues are set forth in the Report and Order of the Commission in Docket No. 36556.

Upon investigation and consideration of views, arguments, and representations of the parties the Commission finds that Parts 1207 and 1249 of Chapter X of Title 49 of the Code of Federal Regulations should be amended as detailed in the Notice of Proposed Rulemaking and Order except for the revisions set forth in the Report of the Commission; and that such rules are reasonable and necessary to the effective enforcement of the provision of Part II of the Interstate Commerce Act, as amended; that such rules are otherwise lawful and, to the extent so found in this report, consistent with the public interest and the national transportation policy; and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered that: (1) Effective January 1, 1977, the regulations prescribed in Parts 1207 and 1249, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as shown below upon advice from the Comptroller General of the United States that they comply with the Federal Reports Act.

(2) That service of this order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

(49 U.S.C. 12 and 20.)

Issued at Washington, D.C. September 28, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Parts 1207 and 1249 of Chapter X, Title 49, Code of Federal Regulations, are amended as set forth below.

A. Part 1207, Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property, is amended as follows:

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

1. In the list of instructions line item 32 is revised to read "Reserved."

2. Instruction 10 is amended to read as follows:

10. Clearing accounts.

(a) * * * as subdivisions of Account 1512—Deferred Debits or 2412—Deferred Credits (classes I and II) or * * *

(b) * * * included in Account 1512 or 2412 (classes I and II) or Account 1551 (classes I and II) * * *

3. Instruction 12(d) is revised by deleting the parenthetical phrase, "(class I carriers)" and the last sentence.

4. Instruction 13 is amended to read as follows:

13. Current assets.

(a) In the group of accounts designated as current assets, there shall not be * * *

* * * * *

5. Instruction 16 is amended to read as follows:

16. Capital stock.

* * * * *

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled the par value shall be charged to account 2611—Capital Stock—Preferred or 2612—Capital Stock—Common if cancelled. Any Excess * * *

* * * * *

6. Instruction 19 is amended to read as follows:

19. Carrier operating property.

(a) (1) * * * coded 1211 through 1252, are classified as carrier operating property.

* * * * *

(f) (1) * * * operating accounts (accounts 1211 through 1252) to * * * The related accumulated depreciation (recorded in accounts 1214 through 1252) shall * * *

(2) * * * operating accounts the book cost of the property * * *

* * * * *

(h) * * * shall be charged to Account 1241—Improvements to Leasehold Property. Amortization * * *

* * * * *

7. Instruction 20 is amended to read as follows:

20. Acquisition of a distinct operating unit.

* * * * *

(a) *Purchase* (1) * * * the amounts includible in accounts 1211 through 1341 for * * *

* * * * *

(c) * * * included in accounts 2632, 2641, and 2652 (class II) and accounts 1211 through 1341 (classes I and II), 2632, 2641, and 2652 (class I) * * *

8. Instruction 21, paragraph (a), is amended to read as follows:

21. Retirement of property.

(a) * * *
(1) * * *
(iii) * * *

(*a*) * * * shall be charged to Account 1245—Unfinished Construction with contra credit to the clearing Account. * * *

* * * * *

(c) * * * or transferred to the deferred credits accounts (2412), as appropriate. * * * (or less the amount in account 2412). If the property * * *

* * * * *

9. Instruction 22 is amended to read as follows:

22. Insurance.

* * * * *

(g) * * * charged to Account 1142—Prepaid Insurance and * * * refund shall be retained in Account 1142 and the balance * * * estimated dividend shall be charged to account 1142, and the * * *

NOTE.— * * * and the remainder of the premium shall be charged to Account 1142 and prorated * * *

10. Instruction 23 is amended to read as follows:

23. Depreciation and amortization.

* * * * *

(b) * * * depreciable property included in accounts 1211 through 1251, amounts * * * accumulated depreciation and amortization (accounts 1214 through 1252).

(1) Depreciation charges on property included in accounts:

1213 Structures.
1221 Revenue Equipment.
1223 Service Cars and Equipment.

* * * * *

(2) Depreciation charges on property included in accounts:

1233 Shop and Garage Equipment.
1235 Furniture and Office Equipment.
1237 Miscellaneous Equipment.

* * * * *

(c) Amortization and depreciation charges on property included in Account 1241—Improvements to Leasehold Property (see instruction 21) shall be * * *

* * * * *

11. Instruction 24 is amended by deleting "Account 1140—Prepayments (class II)" and the parenthetical phrase "(class I)".

12. The title and text of instruction 32 is deleted and marked "Reserved."

CLASS I & CLASS II MOTOR CARRIERS CHART OF ACCOUNTS—BALANCE SHEET

The Class I and Class II Motor Carrier Chart of Accounts—Balance Sheet is amended in the Class II column to read as follows:

Current Assets

* * * * *

Sec.
1030 Temporary Cash Investments.
Notes Receivable:
1111 Notes Receivable; Officers, Stockholders, and Employees.
1112 Notes Receivable; Others.
Receivables from Affiliated Companies:
1121 Loans and Notes Receivable from Affiliated Companies.
1122 Interest and Dividends Receivable from Affiliated Companies.
1123 Accounts Receivable from Affiliated Companies.

* * * * *

Prepayments:
1141 Prepaid Taxes and Licenses.
1142 Prepaid Insurance.
1143 Prepaid Interest.
1144 Prepaid Rents.
1145 Prepaid Stationery and Printed Matter.
1146 Prepaid Tires and Tubes.
1147 Miscellaneous Prepayments.

* * * * *

Tangible Property

Land and Structures.
1211 Land.
1213 Structures.

* * * * *

Other Carrier Property

1233 Shop and Garage Equipment.
1234 Accumulated Depreciation—Shop and Garage Equipment.

Sec.
1235 Furniture and Office Equipment.
1236 Accumulated Depreciation—Furniture and Office Equipment.
1237 Miscellaneous Equipment.
1238 Accumulated Depreciation—Miscellaneous Equipment.
1241 Improvements to Leasehold Property.
1242 Accumulated Amortization—Improvements to Leasehold Property.
1243 Undistributed Property.
1244 Accumulated Depreciation—Undistributed Property.
1245 Unfinished Construction.
1251 Carrier Operating Property Leased to Others.
1252 Accumulated Depreciation—Carrier Operating Property Leased to Others.

* * * * *

Investment Securities and Advances:

1410 Investments and Advances—Affiliated Companies.
1417 Notes; Affiliated Companies.

* * * * *

Current Liabilities

2010 Notes Payable and Matured Obligations.
Payables to Affiliated Companies:
2021 Loans and Notes Payable to Affiliated Companies.
2022 Interest and Dividends payable to Affiliated Companies
2023 Accounts Payable to Affiliated Companies.
Accounts Payable:

* * * * *

2130 Other Current and Accrued Liabilities.
2161 Current Equipment Obligations and Other Debt.
2190 * * *.

* * * * *

Stockholders' Equity

Capital Stock:
2611 Capital Stock—Preferred.
2612 Capital Stock—Common.
2613 Subscribed Capital Stock.

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT EXPLANATIONS

1. Note B to the text of Account 1011—Cash (class I) is amended to read as follows:

1011—Cash (class I).

* * * * *

NOTE B.— * * * Deposits which are not available for withdrawal within 1 year shall be included in Account 1512—Deferred Debits.

* * * * *

2. Note A to the text of Account 1012—Working Funds (class I) is amended to read as follows:

1012—Working Funds (class I).

* * * * *

NOTE A.— * * * shall be charged to a subdivision of Account 1512—Deferred Debits.

3. Note B to the text of Account 1023—Miscellaneous Special Deposits (class I) is amended to read as follows:

1023—Miscellaneous Special Deposits (class I).

* * * * *

NOTE B.— * * * shall be included in Account 1512—Deferred Debits.

4. The title and text of Account 1110—Notes Receivable (class II) are deleted.

5. The title and text of Account 1111—Notes Receivable—Officers, Stockholders, and Employees (class I) are amended to read as follows:

1111—Notes Receivable—Officers, Stockholders, and Employees (classes I II).

* * * * *

NOTE A.—Notes receivable from affiliated companies shall be included in Account 1121—Loans and Notes Receivable from Affiliated Companies (classes I and II) or Account 1410—Investments and Advances—Affiliated Companies (class II) and Accounts 1411–1421, inclusive (class I), as appropriate.

* * * * *

6. The title of Account 1112 is amended to read "1112—Notes Receivable—Other (classes I and II)."

7. The title and text of Account 1120—Receivables from Affiliated Companies (class II) are deleted. The parenthetical phrase "(class I)" in the titles of subaccounts 1121, 1122, and 1123 is amended to read "(classes I and II)."

8. The text of Account 1135—Accounts Receivable; Other (classes I and II) is amended to read as follows:

1135—Accounts Receivable; Other (class and II).

This account shall include amounts due from others (except items provided for in accounts 1121, 1122, 1123, 1131 and 1133) that are * * *

* * * * *

9. The title and text of Account 1140—Prepayments (class II) is deleted. The parenthetical phrase "(class I)" in the titles of accounts 1141–1147, inclusive, is amended to read "(classes I and II)."

10. Note D to the text of Account 1151—Material and Supplies (classes I and II) is amended to read as follows:

Account 1151 Material and Supplies (class I and II).

NOTE D.—Stationery and printed matter should be charged to Account 1145.

* * * * *

11. The text of Account 1161—Subscribers to Capital Stock (class I) is amended to read as follows:

Account 1161 Subscribers to Capital Stock (class I).

* * * * *

(b) * * * Concurrently, there shall be credited to Account 2613—Subscribed Capital Stock, the par * * *

* * * * *

Account 1162 Interest and Dividends Receivable (class I).

12. The text of note A to Account 1162—Interest and Dividends Receivable (class I) is amended to read as follows:

* * * * *

NOTE A.—* * * shall be included in Account 1122—Interest and Dividends Receivable From Affiliated Companies.

* * * * *

13. The title and text of Account 1210—Land and Structures (class II) are deleted and the parenthetical phrase "(class 1)" in the titles of subaccounts 1211 and 1213 is amended to read "(classes I and II)." The text of Account 1213, Note D, is amended to read as follows:

1213—Structures (classes I and II).

* * * * *

NOTE D.—* * * carried in Account 1245—Unfinished Construction, until ready for service.

14. The text of Account 1214—Accumulated Depreciation—Structures (Classes I and II) is amended to read as follows:

1214—Accumulated Depreciation—Structures (classes I and II).

(a) * * *

(3) * * * to the preceding asset account, or account 1251—Carrier Operating Property Leased to Others.

* * * * *

15. The titles and texts of Accounts 1230—Other Carrier Prroperty (class II) and 1232—Accumulated Depreciation and Amortization—Other Carrier Property (class II) are deleted.

16. The parenthetical phrase "(class I)" in the titles of Accounts 1233 through 1252 is amended to read "(classes I and II)."

17. Notes A and B to the text of Account 1245—Unfinished Construction (class I) is amended to read as follows:

1245—Unfinished Construction (class I).

NOTE A.—* * * and Account 1512—Deferred Debits.)

NOTE B.—* * * shall be carried in Account 1512—Deferred Debits. * * *

* * * * *

18. The text of Account 1410—Investments and Advancements—Affiliated Companies (class II) is amended to read as follows:

1410—Investments and Advances—Affiliated Companies (class II).

This account shall include the book cost (see definition 8) of the carrier's investments in securities issued or assumed by affiliated companies and the amount of advances * * *

NOTE A.—* * * shall be included in accounts 1121, 1122, or 1123, as appropriate.

* * * * *

19. The parenthetical phrase in the title of Account 1417—Notes; Affiliated Companies (class I) is amended to read "(classes I and II)."

20. The text of Account 1428—Adjustments—Investments and Advancements; Affiliated Companies (classes I and II) is amended to read as follows:

1428—Adjustments Investments and Advances; Affiliated Companies (classes I and II).

* * * securities included in accounts 1410, 1411, 1413, 1415, 1417, 1419 or 1421, as appropriate (see instruction 18(b)).

21. Note A in the text of Account 2011—Notes Payable (class I) is amended to read as follows:

2011—Notes Payable (class I).

* * * * *

NOTE A.—* * * included in Account 2021—Loans and Notes Payable to Affiliated Companies (see also Account * * *).

* * * * *

22. The title and text of Account 2020—Payables to Affiliated Companies (class II) are deleted and the parenthetical phrase "(class I)" in the titles of subaccounts 2021, 2022 and 2023 is amended to read "(classes I and II)."

23. Note A in the text of Account 2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II) is amended to read as follows:

2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II).

* * * * *

NOTE A.—* * * included in Account 1141—Prepaid Taxes and Licenses.

24. The text of Note A to the following accounts is deleted and marked "Reserved."

4240—Salaries and Wages—Vehicle Repair and Service
4530—Vehicle Parts
4540—Vehicle Maintenance by Outside Vendors
4540—Vehicle Maintenance by Outside Vendors
4550—Tires and Tubes
5320—Depreciation Expense—Revenue Equipment
5410—Vehicle Rents With Drivers
5430—Vehicle Rents Without Drivers

25. The text of Note B to Account 5420—Vehicle Rents With Driver—Vehicle Portion Only is deleted and marked "Reserved."

26. The text of Note D to Accounts 4510—Fuel for Motor Vehicle and 4520—Oil Lubricants, and Coolants for Motor Vehicles is deleted and marked "Reserved."

27. The text of Note F to Account 5490—Equipment Rents—Credit is deleted and marked "Reserved."

28. The text of Account 2130—Other Current and Accrued Liabilities (class II) is amended by adding "except 2161" at the end of the sentence.

29. The text of Account 2131 (Note A)—Dividends Payable (class I) is amended to read as follows:

2131 Dividends Payable (class I).

* * * * *

NOTE A * * * shall be included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

30. The text of Account 2141—Notes and Advances Payable (interest accrued) (class I) is amended to read as follows:

2141 Notes and Advances Payable (interest accrued) (class I).

* * * * *

(b) * * * credited to Account 2022—Interest and Dividends Payable to Affiliated Companies, * * *

* * * * *

31. The text of Account 2151—Notes and Advances Payable (matured interest) (class I) is amended to read as follows:

2151 Notes and Advances Payable (matured interest) (class I).

* * * included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

32. The title of Account 2161 is amended to read "Current Equipment Obligations and Other Debt (classes I and II)."

33. The texts of subaccounts 2311, 2312 and 2313 are amended to read as follows:

2311 Notes Payable (affiliated companies) (class I).

* * * * *

(b) * * * included in Account 2021—Loans and Notes Payable to Affiliated Companies.

2312 Open Accounts, Not Subject to Current Settlement (affiliated companies) (class I).

* * * * *

(b) * * * included in Account 2023—Accounts Payable to Affiliated Companies.

2313 Interest Accrued, Not Subject to Current Settlement (affiliated companies) (class I).

* * * * *

(b) * * * included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

34. The texts of Accounts 2331, 2332, 2333, and 2334 are amended to read as follows:

2331 Equipment Obligations (classes I and II).

(a) * * * is includible in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

* * * * *

2332 Bonds and Debentures (classes I and II).

(a) * * * is includible in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

* * * * *

2333 Capitalized Lease Obligations (classes I and II).

* * * * *

NOTE A. * * * includible in Account 2161—Current Equipment Obligations and Other Debt.

2334 Other Long-Term Obligations (classes I and II).

* * * * *

(a) * * * is includible in Account 2161—Current Equipment Obligations and Other Debt (see Note A). * * *

* * * * *

35. The title and text of Accounts 2410—Deferred Credits (class II) and 2411—Unamortized Premium on debt are deleted.

36. The title and text of Account 2610—Capital Stock (class II) are deleted and the parenthetical phrase "(class I)" in the titles of Accounts 2611, 2612 and 2613 is amended to read "(classes I and II)."

REVENUE ACCOUNT, EXPLANATIONS
Instruction 27, 28A and 28C Carriers

The text of Account 3100—Freight Revenue—Intercity Common Carrier (Classes I and II) is amended to read as follows:

3100 Freight Revenue—Intercity Common Carrier (classes I and II).

* * * * *

NOTE C. * * * included in Account 2023—Accounts Payable to Affiliated Companies or Account 2032. * * *

* * * * *

OPERATING EXPENSE ACCOUNT EXPLANATIONS
Instruction 27, 28A and 28C Carriers

The operating expense account explanations for Instruction 27, 28A, and 28C carriers are amended as follows:

1. Account 4550—Tires and Tubes is amended by deleting the words "Account 1140—Prepayments (class II) or" and "(class I)" in the first paragraph.

2. Account 4700—Operating Taxes and Licenses is amended by deleting Note A.

3. Account 5310—Depreciation Expense—Buildings and Structures is amended by deleting the words "Account 1210—Land and Structures (class II) or" and "(class I)" from the first paragraph.

4. Account 5340—Depreciation Expense—Shop and Garage Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)."

5. Account 5350—Depreciation Expense—Furniture and Office Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

6. Account 5360—Depreciation Expense — Miscellaneous Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

7. Account 5370—Amortization Expense — Improvements to Leasehold Property is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

8. Account 5380—Depreciation Expense — Undistributed Property is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

9. Account 5710—Gains on Disposition of Operating Assets is amended by deleting the words "1221 through 1232 (class II) and accounts" and "(class I)" from the first paragraph.

10. Account 5930—Professional Services—Debit is amended to read as follows:

5930 Professional Services—Debit.

NOTE C. * * * law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium or Debt or Account 2633 * * *

NOTE D. * * * shall be charged to Account 1512 Deferred Debits and amortized by charges to this account.

CLASS I AND CLASS II CARRIERS OF HOUSEHOLD GOODS (INSTRUCTION 28B CARRIERS)

REVENUE ACCOUNT EXPLANATIONS

1. Account 3100—Moving Revenue—Intercity Common Carriers, Own Rights (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

2. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Com-

panies (class II); and" and "(class I)" from Note A.

3. Account 3600 — Supplementary Transportation Services (classes I and II) is amended by deleting the words "Account 2020—Payable to Affiliated Companies (class II); and" and "(class I)" from Note A.

4. Account 3900 — Other Operating Revenue (classes I and II) is amended changing the reference to Account 1210 to read "1211."

ACCOUNT EXPLANATIONS—OPERATING EXPENSES

The operating expense account explanations for household goods carriers are amended as follows:

1. Account 6200—Tires and Tubes is amended by deleting the words "Account 1140—Prepayments (class II) or" and "(class I only)" in the first paragraph.

2. Account 7330—Other Outside Services—Professional Services is amended to read as follows:

7330 Other Outside Services—Professional Services.

* * * * *

NOTE C. * * * law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium or Debt or Account 2633 * * *

NOTE D. * * * shall be charged to Account 1512 Deferred Debits and amortized by charges to this account.

3. Account 8120—Depreciation—Revenue Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II), or" and "(class I)."

4. Account 8140—Depreciation—Buildings and Structures is amended by deleting the words "Account 1210—Land and Structures (class II) or" and "(class I)."

5. Account 8150—Depreciation—Furniture and Office Equipment is amended by deleting "Account 1230—Other Carrier Property (class II) or" and "(class I)."

6. Account 8170—Depreciation—Undistributed Property is amended by deleting the words "(class I)."

7. Account 8210—Amortization of Leasehold Improvements is amended by deleting the words "Account 1230—Other Carrier Property (class II), or" and "(class I)" in the first paragraph.

8. Account 8400—Taxes and Licenses is amended by deleting the second paragraph.

9. Account 8910—Gains on Disposition of Operating Assets is amended by deleting the words "Accounts 1221 through 1232 (class II) and" and "(class I)" in paragraph (a).

CLASS I AND CLASS II MOTOR CARRIER CHART OF ACCOUNTS

OTHER INCOME AND EXPENSES

The Class I and Class II Motor Carrier Chart of Accounts is amended, under Class II, to read as follows:

CLASS II ACCOUNTS*

* * * * *

8700/9700 Income taxes on income from continuing operations.
8710/9710 Federal Income Taxes.
8720/9720 State Income Taxes.
8730/9730 Other Income Taxes.

* * * * *

OTHER INCOME AND EXPENSE ACCOUNT EXPLANATIONS

The Other Income and Expense Account Explanations are amended as follows:

1. Account 8320/9320—Lease of Distinct Operating Units—Credit is amended by deleting the words "Account 1232—Accumulated Depreciation and Amortization, Other Carrier Property (class II) or to" and "(class I)" in Note A.

2. Account 8700/9700—Income Taxes on Income from Continuing Operations is amended by deleting "class I" in paragraph (a); and deleting paragraph (b) and classifying (b) as "Reserved."

3. The title of Account 8710/9710 is amended to read: Federal Income Taxes (classes I and II).

4. The title of Account 8720/9720 is amended to read: State Income Taxes (classes I and II).

5. The title of Account 8730/9730 is amended to read: Other Income Taxes (classes I and II).

6. Account 8800/9800—Extraordinary Items (classes I and II) is amended by deleting "class I" in paragraphs (a) and (f); and by deleting the texts of paragraphs (b) and (c) and classifying them as "Reserved."

7. The title of Account 8810/9810 is amended to read: Extraordinary item (net) (classes I and II).

8. The title of Account 8850/9850 is amended to read: Income taxes on extraordinary items (classes I and II).

9. The title of Account 8851/9851 is amended to read: Provision for deferred taxes—extraordinary items (classes I and II).

B. Part 1249, Reports of Motor Carriers, Chapter X, Title 49 of the Code of Federal Regulations is revised as follows:

Sec.
1249.1 Annual reports of Class I and Class II carriers of property.
1249.2 Annual reports of Class I and Class II carriers of household goods and dual authority carriers.
1249.3 Annual reports of motor carrier holding companies.

AUTHORITY: 49 U.S.C. 12 and 20.

§ 1249.1 Annual reports of Class I and Class II carriers of property.

(a) Commencing with reports for the accounting year 1977, as described in part 1207 instruction 3 of this chapter, and thereafter, until further order, all class I and class II motor carriers of property, as described in § 1240.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.2 Annual reports of Class I and Class II carriers of household goods and dual authority carriers.

Commencing with reports for the accounting year 1977, as described in part 1207 instruction 3 of this chapter, and thereafter, until further order all class I and class II motor carriers of household goods and dual authority carriers, as described in § 1240.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M-H. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.3 Annual report of motor carrier holding companies.

(a) Each person which is not a motor carrier, but which shall be considered a motor carrier subject to provisions of section 220 of the Interstate Commerce Act by reason of effective control over one or more motor carriers through ownership of securities issued or assumed by such controlled motor carrier or carriers, shall file a report of its financial transactions in accordance with Motor Carrier Annual Report Form M as prescribed in § 1249.1. Such reports hereby required to be filed shall be complete as to all schedules, declarations, replies, attachments, and other requirements of Motor Carrier Annual Report Form M, other than those which relate solely to the direct ownership and operation of highway equipment, and shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates. Such persons shall also file similar reports annually, prepared in accordance with requirements for compiling Motor Carrier Anual Report Form M, as those requirements are now in effect or may in the future be modified, for each succeeding calendar year, or accounting year of thirteen 4-week periods, such annual reports to be filed in duplicate with the Commission on or before March 31 of the year following the year to which the report relates.

(b) Commencing with reports for the accounting year 1977, as described in part 1207 instruction 3 of this chapter, and thereafter, until further order, each company subject to this section is hereby required to file with this Commission, in addition to said Annual Report Form M, a supplemental consolidated report, Form M-4, setting forth the complete financial condition of such company and its subsidiaries in the scope and form indicated in the instructions to the supplemental consolidated report Form M-4 for the accounting year 1977 and each succeeding year thereafter. Such supplemental financial reports shall be attached to and considered an integral part of Motor Carrier Annual Report Form M filed by each company.

[FR Doc.77-29164 Filed 9-30-77;8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Emergency Amendment Regarding the Use of Steel Shot for Waterfowl Hunting in Portions of Minnesota in 1977

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule delays implementation of the regulation requiring use of non-toxic shot for waterfowl hunting in designated zones in Minnesota. This delay has been caused by a lack of availability of non-toxic shot shells in the State. This rule will permit hunters to hunt waterfowl with toxic shot between October 1 and October 14, 1977. The non-toxic shot regulations become effective October 15, 1977.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert I. Smith, Special Projects Coordinator, Office of Migratory Bird Management, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-8827).

SUPPLEMENTARY INFORMATION: On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21618) descriptions of certain areas in the State of Minnesota in which non-toxic shot regulations would be applicable for waterfowl hunting in seasons commencing in 1977. Since these seasons commence on October 1, 1977, the regulations were applicable to Minnesota beginning on that date. During the last week of August 1977 a survey of stores that sell ammunition in the State of Minnesota indicated that supplies of shotshells loaded with steel shot were available at only a few locations. The State was notified that a potential problem existed with regard to the availability of steel-shot ammunition. Efforts were made by the State to correct this problem during September. Surveys of stores conducted in mid-September indicated that the problem had been partially corrected, but many stores had placed orders too late to receive shipments prior to October 1. Therefore, the Service in consultation with the State has decided to delay the implementation of steel shot requirements for waterfowl hunting in those portions of Minnesota described in 42 FR 21618 to allow shipments of steel shotshells which are now on order to arrive at the stores. Since it was found that immediate corrective action was required, notice and public procedure was impractical and contrary to the public interest, therefore this shall become effective September 30, 1977.

This final rulemaking was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-343-8827).

Accordingly, the Service amends 50 CFR, Chapter 1, Subchapter B, Subpart K by adding the following to that portion of § 20.108 which describes the non-toxic shot zones for Minnesota.

3. In the areas described above in the State of Minnesota use of non-toxic shot for waterfowl hunting will not be required prior to October 15, 1977.

NOTE.—The Fish and Wildlife Service has determined that this ruling does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 28, 1977

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-29084 Filed 9-30-77;8:45 am]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0-45	5.30
46-51	4.20
52	5.20
53-209	5.80
210-699	6.10
700-749	4.10
750-899	1.80
900-944	4.25
945-980	2.40
981-999	2.50
1000-1059	4.25
1060-1119	4.40
1120-1199	3.20
1200-1499	4.20
1500-end	7.25
8	2.60
9	6.80
10 Parts:	
0-199	4.40
200-end	4.60
11 (Rev. 5/1/77)	2.30
12 Parts:	
1-299	7.40
300-end	7.30
13	4.20
14 Parts:	
1-59	6.00
60-199	5.10
200-1199	6.20
1200-end	2.20
15	5.35
16 Parts:	
0-149	$5.50
150-999	4.25
1000-end	3.00

CFR Unit (Rev. as of April 1, 1977):

Title	Price
17	6.75
18 Parts:	
1-149	4.25
150-end	4.00
19	5.75
20 Parts:	
01-399	3.25
400-499	5.00
500-end	4.00
21 Parts:	
1-99	3.25
100-199	4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
1300-end	4.25
23	5.50
24 Parts:	
0-499	5.00
500-end	5.25
26 Parts:	
1 (§§ 1.170-1.300)	$4.00
1 (§§ 1.301-1.400)	3.75
1 (§§ 1.401-1.500)	4.00
1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.35
2-29	4.50
30-39	4.35
300-499	4.35
600-end	2.40

CFR Unit (Rev. as of July 1, 1977):

Title	Price
34	$1.70

CFR Unit (Rev. as of Oct. 1, 1976):

Title	Price
42	5.95
43 Parts:	
1-999	3.10
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	3.45
100-199	10.00
200-499	3.15
500-end	6.40
46 Parts:	
1-29	2.15
30-40	2.20
41-69	4.00
70-89	2.10
90-109	1.95
110-139	1.90
140-165	4.00
166-199	2.65
200-end	7.25
47 Parts:	
0-19	3.80
20-69	5.00
70-79	4.90
80-end	6.20
48 [Reserved]	
49 Parts:	
1-99	2.05
100-199 (Rev. 12/31/76)	6.50
200-999	7.55
1000-1199	3.95
1200-1299	7.40
1300-end	3.60
50	4.20

proposed rules

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1487]

CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM (GSM-101)

AGENCY: Commodity Credit Corporation, Department of Agricultre.

ACTION: Proposed rule.

SUMMARY: Certain segments of the U.S. agricultural commodity export trade, particularly exporters of cotton, have experienced increasing difficulty in obtaining adequate financing for their sales to foreign buyers on private credit terms. Private banking institutions currently financing export credit sales of agricultural commodities have indicated they would be disposed towards making additional financing available if they could be protected against certain type of non-commercial, risk occurrences which prevent remittances pursuant to a foreign bank letter of credit. Among these risks are acts of government which prevent conversion of local currency to U.S. dollars. To provide this kind of protection, Commodity Credit Corporation (CCC) is proposing a non-Commercial Risk Assurance Program (GSM-101) under which CCC would enter into assurance agreements with U.S. exporters who sell U.S. agricultural commodities on deferred payment terms. Under the assurance agreements, CCC would pay the exporter the assured amount of any default under a foreign bank letter of credit arising from certain specified non-commercial risks.

DATE: Comments must be received by November 2, 1977.

FOR FURTHER INFORMATION CONTACT:

L.T. McElvain or Francis A. Woodling, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250, telephone 202-447-3224 or 447-3573.

The public is invited to submit written comments regarding the proposed rule to the Office of the General Sales Manager, Commercial Export Programs, U.S. Department of Agriculture, Washington, D.C. 20250, no later than November 2, 1977, to be sure of consideration. Each person submitting comments regarding the proposed rule shall include his name and address and give reasons for any suggested change in the proposed rule. Copies of all written communications received will be available for examination by interested persons in room 4079, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250, during regular business hours. Accordingly, it is proposed to amend Chapter XIV of Title 7 of the CFR by adding a new Part 1487—Non-Commercial Risk Assurance Program (GSM-101) to read as follows:

PART 1487—CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM (GSM-101)

GENERAL

AUTHORITY: Sec. 5(f), 62 Stat. 1072 (7 U.S.C. 714c(f).)

GENERAL

§ 1487.1 General statement.

(a) This part contains the regulations governing the Commodity Credit Corporation Non-Commercial Risk Assurance Program, also referred to as "GSM-101." Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold on a deferred payment basis. Generally, the guarantee is in the form of an irrevocable bank letter of credit issued in favor of the exporter who draws drafts for the deferred payments as they fall due on the bank issuing such letter of credit. GSM-101 is designed to protect the exporter from losses should a draft be dishonored as the result of a non-commercial risk occurrence. By transferring the non-commerical risk of loss of deferred paymets from exporters and their financing institutions to CCC, GSM-101 is intended to (1) facilitate exportation, (2) forestall or limit declines in exports, (3) permit exporters to meet competition from other countries, and (4) increase commercial exports of U.S. agricultural commodities.

(b) GSM-101 wil be administered by the Office of General Sales Manager, U.S. Departemnt of Agriculture.

(c) The provisions of Pub. L. 83-664 (Cargo Preference Act) are not applicable to shipment of commodities assured as to non-commercial risk under GSM-101.

(d) GSM-101 will be supplemented by USDA announcements.

§ 1487.2 Definition of terms.

(a) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager.

(b) "Assured Value" means the maximum amount CCC agrees to pay the exporter under the assurance agreement. The assured value shall not exceed the unpaid balance of the port value of the commodity prior to shipment plus interest of not more than six percent per annum on such unpaid balance.

(c) "Assurance Agreement" means the written agreement under which CCC undertakes to reimburse the exporter for losses resulting from defaults in remittances due to non-commercial risk under a foreign bank letter of credit securing the exporter's export credit sale.

(d) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(e) "Date of Export" means the onboard date of an ocean bill of lading or onboard ocean carrier date of an intermodal bill of lading.

(f) "Date of Sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the importer under which a firm dollar and cent price has been established or a mechanism to establish the price has been agreed upon.

(g) "Export Credit Sales" means an agreement by an exporter to sell eligible agricultural commodities for U.S. dollars to an importer. The agreement shall provide for export of the commodities to eligible countries within 12 months from the contract date and for payment by the importer on a deferred payment basis not exceeding 36 months from the date(s) of export.

(h) "Exporter" means an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity (1) that is financially responsible, (2) engaged in the business of buying or selling commodities for export and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has

someone on whom service of judicial process may be had within the United States, and (3) not suspended or debarred from contracting with or participating in any program administered by CCC on the date of issuance of the assurance agreement.

(i) "Foreign Bank Letter of Credit" means an irrevocable commercial letter of credit issued in favor of the exporter by a banking institution in the destination country pursuant to an export credit sale, which provides for deferred payments in U.S. dollars.

(j) "Importer" means a foreign buyer who enters into an export credit sale contract on a deferred payment basis with a U.S. exporter.

(k) "Non-Commercial Risk" means the risk of loss as a result of failure by the foreign bank, through no fault of its own, to make remittances pursuant to the bank letter of credit issued by it because of (1) war, hostilities, civil war, rebellion, insurrection or civil commotion; or (2) expropriation, confiscation, or like action by government; or (3) the imposition by governmental authority of any order, decree, or regulation of general applicability having the force of law; or (4) the failure of the central exchange authority to transfer local currency into dollars.

(l) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(m) "Port value" means the total value of the export credit sale, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. ports. Such value shall include, the value of the upward loading tolerances, if any, as provided for by the export credit sales contract.

(n) "USDA Announcement" means an announcement issued by the U.S. Department of Agriculture supplementing these regulations. An announcement may include identification of eligible agricultural commodities and countries, dollar limitation of CCC exposure in a country and other information.

(o) "Vice President, CCC" means the Vice President who is the General Sales Manager, OGSM.

ASSURANCE AGAINST NON-COMMERCIAL RISK DEFAULTS

§ 1487.3 Application for assurance agreement.

(a) An exporter shall submit a written application for an assurance agreement to the office specfied in § 1487.16. An application may be made by telephone, but it must be confirmed in writing. An application shall include the following:

(1) Name of the destination country.
(2) Name and address of importer.
(3) Date of sale.
(4) Exporter's sale number.
(5) Delivery period.
(6) Kind and description of the commodity.
(7) Quantity.
(8) Port value.
(9) Assured value.
(10) Estimated payment schedule(s) for each shipment to be made under the assurance agreement showing the estimated payment due dates and estimated amounts due separately for both principal and interest.

(b) An application for an assurance agreement may be rejected, approved with modifications, or approved as submitted by the Assistant Sales Manager. In the event the application is approved, the Assistant Sales Manager shall cause an assurance agreement to be issued in favor of the U.S. exporter.

§ 1487.4 Assurance agreement.

(a) The assurance agreement shall provide that CCC shall pay the U.S. exporter in U.S. dollars for losses resulting from the failure of the foreign bank, which issues the bank letter of credit securing the export credit sale, to honor drafts drawn upon it or otherwise remit amounts properly due when such defaults are caused by the occurrence of non-commercial risks arising after export.

(b) The assurance covereage shall become effective on the date(s) of export(s) and continue in force for the period covered by the payment schedule for such export(s). Exports made prior to receipt by CCC of a telephonic or written application for an assurance agreement are ineligible for assurance coverage.

(c) The assurance agreement may contain such terms, conditions, and limitations not inconsistent with GSM-101 as are deemed necessary or desirable by the Assistant Sales Manager.

(d) The assurance agreement may be amended provided such amendment is in conformity with GSM-101 at the time of amendment and is approved by the Assistant Sales Manager. Amendments may include a change in the credit period and an extension of time to export. Any amendments of the assurance agreement may be subject to an increase in the assurance fee. Any amendment shall indicate its effective date and shall apply only to exports made on or after that date.

ASSURANCE RATES AND FEES

§ 1487.5 Assurance rates.

The assurance rates will be based upon the length of the payment terms provided by the export credit sale contract, the degree of risk that CCC assumes, and any other factors which CCC believes should be considered. Assurance rates charged by CCC under GSM-101 will be available upon request from the office specified in § 1487.16.

§ 1487.6 Assurance fees.

(a) The assurance fee will be computed on the basis of the portion of the port value, plus interest not to exceed 6 percent, which is assured under the assurance agreement.

(b) The exporter shall remit, with his written application, the full amount of the fee based on an applicable rate. If the application is submitted by telephone, telex, or TWX, final approval of the application will not be given until the fee has been received by CCC. Approval of the application will be final and refunds of the assurance fee will not be made after approval unless the Assistant Sales Manager determines that such a refund would be in the interest of GSM-101.

(c) If the application for an assurance agreement is not approved or is approved only for a part of the coverage requested, a full or pro rata refund of the remittance will be made. The assurance fee shall be made payable to CCC and mailed to the office specified in § 1487.16.

DOCUMENTS REQUIRED AFTER EXPORT

§ 1487.7 Evidence of export.

(a) The exporter shall provide a written report to the office specified in § 1487.16 within 20 days following each export covered under the assurance agreement. This report shall include the following:

(1) Assurance agreement number.
(2) Date of export.
(3) Exporter's sale number.
(4) Port value exported.
(5) Kind, quantity and description of the commodity exported.
(6) Statement that the agricultural commodities of the grade, quality and quantity called for in his sales contract with the foreign importer have been exported.
(7) A statement that he has in his files documents evidencing the obligation of the foreign importer and that he will retain such documents in his files until three years after maturity of the related assurance agreement.
(8) A statement that a letter of credit has been opened in favor of the exporter to cover the port value of the commodity exported.
(9) A payment schedule showing the payment due dates and amounts due separately for both principal and interest for which credit has been extended to the importer.

(b) If the report required by paragraph (a) of this section is not received by CCC within 20 days after the date of the export, the assurance agreement shall become null and void with respect to defaults in payments applicable to such export. This provision may be waived by the Assistant Sales Manager for good cause shown.

LOSSES CAUSED BY NON-COMMERCIAL RISK DEFAULTS

§ 1487.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to honor a draft in full conformity with the terms of the letter of credit and such default appears to be attributable to the occurrence of a non-commercial risk, the exporter or the assignee shall promptly furnish a written notice of default to the Treasurer, CCC. The notice shall include the assurance agreement number, the amount due, the date of refusal to pay, and reason for the default.

(b) Within 30 days after the notice of default, the exporter or the assignee shall furnish the following:

(1) Assurance agreement number.
(2) A certification that the scheduled payment has not been received.
(3) A copy, certified as true and correct by the exporter, of each of the following:
(i) Foreign bank letter of credit securing the export credit sale.
(ii) Export credit sales contract.
(iii) Ocean carrier or intermodal bill(s) of lading with onboard ocean carrier date for each shipment.
(iv) Invoice(s) showing the port value of the commodities exported.
(c) A claim for a loss shall not be honored if it is not made in writing prior to the expiration of six months from the date of default of the scheduled payment.

§ 1487.9 Payment of loss.

(a) Upon receipt of the information required under § 1487.8, and such evidence as CCC may deem necessary for the purpose of establishing that the loss was occasioned by the occurrence of a noncommercial risk default, CCC shall promptly determine whether or not a loss has occurred for which CCC is liable under the applicable assurance agreement and these regulations. CCC will promptly notify the exporter of its determination.
(b) CCC's maximum liability will be limited to the assured value as shown in the assurance agreement. The liability of CCC shall be reduced to the extent that the exporter has obtained other valid and collectible coverage compensation for such loss. If the assured value covers only a percentage of the port value of an export credit sale, the liability of CCC shall be limited to such percentage of the loss.
(c) CCC shall only honor claims for losses on amounts not paid as scheduled. CCC shall not honor claim for amounts due under an accelerated payment clause in the export credit sales contract or the letter of credit unless it is determined to be in the interest of GSM–101 by the Assistant Sales Manager.
(d) If CCC determines that it is liable to the exporter and/or his assignee, the exporter and/or his assignee shall execute and submit to CCC an instrument, in form and substance satisfactory to CCC, subrogating to CCC, their respective rights for the amount of payment in default under the bank letter of credit and the applicable export credit sale. After receipt of an instrument of subrogation, CCC will remit the amount of the loss plus interest, at the Federal Reserve Bank of New York discount rate in effect on the date of default, beginning with the 31st day after notice of default was received by CCC and continuing to the date payment is made by CCC.
(e) Upon payment of a claim to the exporter or his assignee, the exporter or his assignee shall cooperate with CCC to effect recoveries from the foreign bank and/or the importer.

§ 1487.10 Recovery of losses.

(a) Upon payment of loss to the exporter of his assignee, CCC will notify or the importer and/or the foreign bank of its rights under the subrogation agreement to recover all monies in default under the foreign bank letter of credit.
(b) In the event monies for the defaulted payment are received by the exporter or the assignee from the importer, foreign bank, or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC.
(c) Recoveries made by CCC from the importer or foreign bank and recoveries received by CCC from the exporter or assignee or any other source shall be allocated by CCC to the exporter or assignee and CCC on a pro rata basis as their respective interest may appear.
(d) Notwithstanding any other terms of the assurance agreement, the exporter shall be liable to CCC for any amounts paid by CCC under the assurance agreement when, and if it is determined by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by him for the purpose of obtaining the assurance agreement.

MISCELLANEOUS PROVISIONS

§ 1487.11 Assignment.

(a) The exporter may make an assignment of proceeds payable by CCC under the assurance agreement to only a bank or other financing institutions in the United States. The assignment shall cover all amounts payable under the assurance agreement not already paid and shall not be made to more than one party.
(b) An original and two copies of the written notice of each assignment of monies that may be due or come due from CCC together with one signed copy of the instrument of assignment, which shall be a true copy of the original, must be filed by the assignee with the Treasurer, CCC, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.
(c) Receipt of the notice of assignment shall be acknowledged by an official of CCC.

§ 1487.12 Convenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the assurance agreement, or that there is any agreement or understanding for commission, percentage, brokerage, or contingent fee except in the case of bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of his warranty, CCC shall have the right, without limitation of any other rights it may have, to annul the assurance agreement without liability to CCC.

§ 1487.13 Shipment of Commodities on Vessels Calling at North Vietnamese Ports.

Any commodity exported under an assurance agreement shall not be shipped from the United States, or transshipped through Canada via the Great Lakes, at port on the St. Lawrence River, on a vessel which has called at a North Vietnamese port on or after January 25, 1966, unless a special waiver is granted by the Maritime Administration. Commodities shipped on such vessel shall not be considered to have been covered by the assurance agreement.

§ 1487.14 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the assurance agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the assurance agreement if made with a corporation for its general benefit.

§ 1487.15 Exporter's records and accounts.

Authorized officials of USDA shall have access to and the right to examine any pertinent books, documents, papers and records of the exporter and/or the financing institution involving transactions related to the export credit sale covered by the assurance agreement until three years after expiration of the coverage of the related assurance agreement.

§ 1487.16 Communications.

Unless otherwise provided, written requests, notifications, or communications concerning the assurance agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

NOTE.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on September 28, 1977.

KELLY HARRISON,
Vice President, Commodity Credit Corporation and, General Sales Manager, Office of the General Sales Manager.

[FR Doc.77-28957 Filed 9-28-77;12:27 pm]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[10 CFR Part 791]

ELECTRIC HYBRID VEHICLE RESEARCH DEVELOPMENT AND DEMONSTRATION PROJECT

Performance Standards

AGENCY: U.S. Energy Research and Development Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administrator of the U.S. Energy Research and Development Administration is directed in Pub. L. 94–413 (Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976) to promulgate rules establishing performance standards representing the minimum level of performance required of electric or hybrid ve-

hicles to be purchased or leased under provisions of Pub. L. 94–413. This notice is intended to encourage timely public comment for consideration in preparing these performance standards.

DATES: Comments must be received on or before November 18, 1977.

ADDRESS: Send comments to Electric and Hybrid Vehicle Systems, Division of Transportation Energy Conservation, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Paul J. Brown, 202–376–4681.

SUPPLEMENTARY INFORMATION: The Administrator of the U.S. Energy Research and Development Administration is directed in Pub. L. 94–413 (Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976) to promulgate rules establishing performance standards representing the minimum level of performance required of electric or hybrid vehicles to be purchased or leased under provisions of Pub. L. 94–413.

These standards are being developed taking into account factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, and other relevant considerations. In developing supporting material to form a basis for establishing such standards, the Energy Research and Development Administration has contracted by competitive procurement for studies by General Research Corp. of Santa Barbara, Calif., and also by Arthur D. Little, Inc., of Cambridge, Mass. These studies are to develop and document recommendations for the electric and hybrid vehicle minimum performance standards. Interim reports on this work were presented at the Fourth International Symposium on Automotive Propulsion Systems in Washington, D.C., during April 1977. The final report on the General Research Corp. contract is currently available and the Arthur D. Little, Inc., report is scheduled to be available in several weeks. A copy of the contract reports may be obtained from the Office of Electric and Hybrid Vehicle Systems, Transportation Energy Conservation Division, Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. These reports will also soon be available from the National Technical Information Service, U.S. Department of Commerce, 5282 Port Royal Road, Springfield, Va. 22161.

The Society of Automotive Engineers has been engaged by contract to provide critical comment on the specifications recommended by General Research Corp. and Arthur D. Little, Inc. A copy of this report, when available, may also be obtained from the above sources.

Written public comments and recommendations with respect to the proposed standards are invited from interested individuals and organizations, and will be considered by the Energy Research and Development Administration prior to the required promulgation of minimum performance standards by December 17, 1977. It is requested that all comments and recommendations be mailed to the Office of Electric and Hybrid Vehicle Systems by November 18, 1977, to provide sufficient time for such consideration.

Dated at Washington, D.C., this 26th day of September 1977.

MAXINE SAVITZ,
Director, Division of Buildings and Community Systems.

[FR Doc.77-29133 Filed 9-30-77;8:45 am]

[4910–13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77–WE–31–AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC–10 Series Airplanes

AGENCY: Fededal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes an airworthiness directive (AD) that would require both of the following to be accomplished on DC–10 series airplanes: (1) The modification of the stall warning installation and (2) the addition of a preflight stall warning check to the FAA Approved Airplane Flight Manual. The proposed AD is needed to prevent aborted takeoffs at speeds above the designated speed for an aborted takeoff, due to a false stall warning which could result in the airplane running off the runway.

DATES: Comments must be received on or before November 3, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service bulletin may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, CI–750, 54–60. Also, a copy of this service bulletin may be reviewed at, or a copy obtained from: Rules Docket, in Room 916, FAA 800 Independence Ave., SW., Washington, D.C. 20591, or Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Blvd., Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Wordway Postal Center, Los Angeles, Calif. 90009, telephone: 213–536–6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, at the address given in the opening section of this AD. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD will be filed in the Rules Docket.

During the past two years, 58 reported false stall warning annunciations have occurred during takeoff roll at rotation on DC–10 series airplanes. Although the false stall warnings have occurred above the normal abort speed, this condition has resulted in five aborted takeoffs. To alleviate aborted takeoffs induced by false stall warnings, the McDonnell Douglas Corporation has prepared a modification to add a time delay to the stall warning circuitry.

The proposed delay provides a greater time interval between the designated abort speed and any possible false stall warning. The additional delay time will normally result in the airplane becoming airborne before a false stall warning can occur. This should decrease the possibility of an aborted takeoff.

The five second time delay is effected immediately after takeoff only. During the time from nose gear lift off plus five seconds, throughout the flight regime to touchdown, an approach to stall will have a normal undelayed stall warning annunciation.

Since false stall warnings are likely to occur in other airplanes of the same type design, the proposed AD would require accomplishment of the following on DC–10 airplanes: (1) the installation of necessary hardware which will add a normal five second time delay to the stall warning initiation circuitry; and (2) the incorporation in the FAA Approved Airplane Flight Manual of a preflight test procedure that verifies operation of the five second time delay.

NOTE.—In separate but related action, the FAA is proposing the mandatory modification of the angle of attack sensor used on DC–10

and other airplanes, to minimize the probability of false stall warnings.

DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Dewitte T. Lawson Jr., Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDONNELL DOUGLAS: Applies to DC-10-10, -10F, -30, -30F and -40 series airplanes, certificated in all categories.

Compliance required as indicated.

To minimize the probability of an aborted taffeoff following a false stall warning, add a five second time delay between nose gear lift off and the initiation of a stall warning, by accomplishing the following:

a. Within 2,500 additional hours time in service, or 250 days from the effective date of this AD, whichever occurs earlier, unless already accomplished, or unless incorporated in production, modify the airplanes in accordance with McDonnell Douglas DC-10 Service Bulletin 22-94 dated August 4, 1977, or later FAA approved revisions.

b. Incorporate revisions in the FAA Approved Airplane Flight Manual, Documents MDC-J1010, MDC-J1030, MDC-J5830, MDC-J1040 and MDC-J2140, by adding the following new heading and text in Section III Procedures:

Stall warning preflight check

Rotate "Stall Test" switch to "L (MOM)." Note five second delay before stick shaker activation. Rotate "Stall Test" switch to "R (MOM)." Again note five second delay before stick shaker activation.

c. Equivalent modifications, procedures, or revisions may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

d. Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on September 20, 1977.

WILLIAM R. KRIEGER,
Acting Director, Federal Aviation Administration, Western Region.

Secretary.

[FR Doc.77-28991 Filed 9-30-77;8:45 am]

[4910-13]

[14 CFR Part 71]

[Docket No. 77-SO-38]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area, Mocksville, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: A public use instrument approach procedure is being developed for the Twin Lakes Airport, Mocksville, N.C., and additional controlled airspace is required for containment of IFR operations. This proposed rule will designate the Mocksville, N.C., transition area and will lower the base of controlled airspace in the vicinity of the airport from 1,200 to 700 feet to accommodate the anticipated IFR operations.

DATES: Comments must be received on or before November 14, 1977.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before November 14, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Mocksville, N.C., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Twin Lakes Airport, Mocksville, N.C.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division, and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Administration Regulations (14 CFR 71) by adding the following:

Mocksville, N.C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Twin Lakes Airport (Lat. 35°54'50"N., Long. 80°27'20" W.); within 3 miles each side of the 278° bearing from the Davie RBN (Lat. 35°54'48" N., Long. 80°27'23" W.); extending from the 6-mile radius area to 8.5 miles west of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 23, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-28990 Filed 9-30-77;8:45 am]

[4910-13]

[14 CFR Part 91]

[Docket No. 17235; Notice No. 77-21]

GENERAL OPERATING AND FLIGHT RULES

Proposed Elimination of Certain Flight Plan Requirements for Civil Aircraft Operating Between the United States and Canada or Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to revoke the regulation prohibiting operation of civil aircraft between the United States and Canada or Mexico without

prior Air Traffic Control (ATC) authorization or filing of an IFR or VFR flight plan. The FAA believes that this requirement works a hardship upon a significant number of private operators who, to comply, may have to fly a considerable distance out of their way and expend additional flight time and fuel. The FAA believe that this proposal will eliminate the hardship without unduly interfering with efforts by law enforcement agencies to curtail the illicit carriage of narcotic and similar substances in civil aircraft operated between the United States and Canada or Mexico.

DATES: Comments must be received on or before: January 3, 1978.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17235, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Walter J. Moylette, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3128.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before January 3, 1978, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket, for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C., 20591, Telephone: 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF PROPOSED RULE

In 1973, the FAA adopted § 91.84 as a part of its concerted effort to assist law enforcement agencies in prohibiting the carriage of illicit narcotics, marijuana, and depressant and stimulant drugs or substances in civil aircraft operated between the United States and Canada or Mexico, and to minimize the operational hazards associated with this illegal use of aircraft. Simultaneously, the FAA adopted a number of amendments that were designed to accomplish this purpose. Section 91.84 of Part 91 currently states:

Unless otherwise authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

Based on experience under the rule, the FAA believes that the regulation imposes a substantial burden on many affected flights. The hardship is particularly significant on commercial charter flights and some private operations to remote hunting, fishing, or similar camps located in Canada. Since communications in such areas are limited or nonexistent, compliance with § 91.84 frequently requires pilots to fly many miles out of their way to establish communications in order to file or close flight plans. Consequently, compliance with the rule not only causes inconvenience but frequently imposes additional economic burdens on the affected persons in terms of both fuel consumption and flight time.

Many requests for authorizations for waiver of the requirements of the rule have been received. At least one petition for permanent exemption has also been filed. Because of the undue burden found in some cases, the FAA, in the public interest, has granted numerous authorizations to aircraft operators to deviate from the provisions of the rule. Due to the substantial number of requests for authorization to operate without filing a flight plan, the FAA has reviewed the continued need for § 91.84 and discussed the matter with other Federal agencies. Based on that review, the FAA believes that it can revoke § 91.84 and yet continue to maintain the current level of safety and assistance to other agencies in the elimination of the illicit carriage of narcotics, marijuana, and depressant and stimulant drugs and substances in civil aircraft.

This same level of control would continue to be maintained by the Federal Aviation Administration through its enforcement of several other provisions of the FARs in conjunction with several other Federal agencies (e.g., the Drug Enforcement Administration; the Immigration and Naturalization Service; and the Treasury Department) that are actively engaged in combating the illicit drug traffic.

It should be noted that the adoption of this proposal will not eliminate the necessity for a pilot of civil aircraft to comply with the flight plan requirements of § 99.11 when he operates his aircraft in or penetrates a coastal or domestic air defense identification zone (ADIZ). It also would not affect the flight plan and ATC clearance requirements that § 99.115 imposes upon a pilot operating an aircraft in controlled airspace under IFR.

DRAFTING INFORMATION

The principal authors of this document are Walter J. Moylette, Air Traffic Service, and Gloria J. Willingham, Office of the Chief Counsel.

THE PROPOSED RULE

§ 91.84 [Reserved]

Accordingly, the Federal Aviation Administration proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) by revoking § 91.84 and designating it "[Reserved]."

(Secs. 307(c), and 313(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(c), 1354(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c), and 14 CFR 11.45.)

NOTE.—The Federal Aviation Administrator has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 19, 1977.

CHARLES H. NEWPOL,
Acting Director,
Air Traffic Service.

[FR Doc.77-28995 Filed 9-30-77;8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release Nos. 33-5868, 34-13989, 35-20183, IC-9944]

AUDITOR CHANGES

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to amend its rules regarding the reporting of changes of a registrant's independent accountants to require disclosure of (1) the reasons for such changes and (2) whether the decision to change independent accountants was approved by the registrant's Board of Directors or its audit committee. Currently, the reporting of reasons for changing independent accountants is limited to situations involving disagreements between the registrant and its independent accountants on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure. The increased disclosure of facts surrounding a change of auditors should aid investors in better understanding and evaluating the registrant's relationship with its independent accountants.

DATE: Comments should be submitted on or before November 30, 1977.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection (File No. S7-720).

FOR FURTHER INFORMATION CONTACT:

Edward R. Cheramy, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8020).

SUPPLEMENTARY INFORMATION: Beginning in 1971,[1] the Commission has required specific disclosure in a timely Form 8-K filing of any change in the principal independent accountants of the registrant, including disclosure of any disagreements between the registrant and its independent accountants on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure. In 1974, in Accounting Series Release No. 165 (40 FR 1010), the Commission modified the Form 8-K rules and added a section to proxy statement rules entitled, "Relationship with Independent Public Accountants."[2] The current proxy statement requirements call for disclosure of auditor changes and the disagreements described in Form 8-K.

As stated in Accounting Series Release No. 165:

> One of the underpinnings of the Commission's administration of the disclosure requirements of the federal securities laws is its reliance on the reports of independent public accountants on the financial statements of registrants. These reports provide the assurance of an outside expert's examination and opinion, thereby substantially increasing the reliability of financial statements.

Since that time, the role of the independent accountant as an outside expert has expanded. Auditors now perform limited reviews of interim financial information and, on occasion, report the results of such reviews in Form 10-Q. Generally accepted auditing standards now require auditors to report material weaknesses in internal accounting controls to their clients.[3] In addition, the Commission on Auditors' Responsibilities recommended the following:

> The audit function can and should expand from being oriented to periodic financial statements to include information of an accounting and financial nature that management has a responsibility to report, provided that it is produced by the accounting system and the auditor is competent to verify the information.
>
> The audit should be considered as a function to be performed during a period of time rather than an audit of a particular set of financial statements. The audit function should gradually expand to include all important elements of an entity's financial reporting process.[4]

This increased participation by the independent accountant in the financial reporting process will make it even more important that this relationship be fully understood and appreciated by the investors and other users of financial information. To sustain confidence by the users of the auditors' work product, the Commission and the accounting profession have required that auditors remain independent, both in fact and appearance, of the companies they audit. To assure this independence the Commission has encouraged the formation of audit committees comprised of independent members of the Board of Directors.[5] Such committees can serve as links between the independent accountants and the shareholders and give auditors a level of authority higher than management for the discussion of controversial matters. In furtherance of these objectives, the Commission believes that one of the principal responsibilities of an independent audit committee should be that of recommending the engagement or discharge of the company's independent accountants to the full Board of Directors.

In view of the increased significance of the role of the independent accountant, the Commission believes that investors should be fully informed about the relationship between a company and its auditors. In a concurrent release the Commission is soliciting comment on a rule proposal to require public companies to disclose, in their proxy materials, the services provided by their independent accountants and the related fees.[6]

In this release, rules are proposed to more adequately inform investors and others of the circumstances relating to a change of auditors. Because the continuing relationship between the company and its independent accountants is important, the Commission believes that investors should be informed on a timely basis of the reasons for a change in independent accounts. In addition, because of the significance of the decision, the Commission believes that investors should be advised whether the decision to change independent accountants was considered by the company's Board of Directors or its audit committee. The Commission therefore proposes to amend its Form 8-K and proxy rules to require disclosure of these matters.

Effective Date

If adopted, such rules are expected to be effective for all Form 8-Ks and proxy materials filed with the Commission thirty days after the adoption and publication in the Federal Register of final rules.

Commission Action

The Commission hereby proposes (1) to amend § 240.14a-101 of 17 CFR Part 240 by revising Item 8 thereunder by revising paragraph (c) and adding new paragraph (f); and (2) to amend § 249.308 of 17 CFR Part 249 by adding to Item 4 thereunder new paragraphs (b) and (f) and redesignating existing paragraphs (b), (c), and (d) as (c), (d), and (e) respectively, as given below.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a-101 Schedule 14A. Information required in proxy statement.[1]

* * * * *

Item 8. *Relationship with independent public accountants.* * * *

(c) If a change has or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of shareholders, describe the reasons for such change(s) and any disagreement(s) between the accountant and the issuer as previously reported or required to be reported on Form 8-K or in the accountant's letter filed as an exhibit thereto. Prior to submitting the preliminary proxy material to the Commission which contains or amends such description, the issuer shall furnish to any such accountant(s) the reason(s) for the change and a description of any disagreement(s). If such accountant(s) believe that the asserted reason(s) for the change and the description of any disagreement(s) are incorrect or incomplete, he may include a brief statement, ordinarily expected not to exceed 200 words, in the proxy statement presenting his view of the reasons for the change or the description of any disagreement(s). This statement shall be submitted to the issuer within ten business days of the date such accountant(s) received the issuer's reason(s) and description.

* * * * *

(f) If a change has or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of shareholders, state whether such change(s) were considered, recommended or approved by the Board of Directors or an audit or similiar committee thereof.

* * * * *

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[1] Rules adopted in Release No. 34-9344 (36 FR 19363), September 21, 1971.

[2] In the release the definition of a "disagreement" was clarified to indicate that both resolved and unresolved issues were intended to be included; the period covered by the report was extended from eighteen months to the two most recent audit periods plus any subsequent interim period; a requirement was added for filing the report on the termination or resignation of the predecessor auditor without waiting until the successor auditor is engaged; and the report was required to include changes of the independent accountant of a significant subsidiary on whom the principal accountant expressed reliance.

[3] "Statement on Auditing Standards No. 20," "Required Communication of Material Weaknesses in Internal Accounting Control," AICPA, August 1977.

[4] "Report of Tentative Conclusions," The Commission on Auditors' Responsibilities, 1977, p. xix. The Commission on Auditors' Responsibilities was established in October, 1974 by the American Institute of Certified Public Accountants to study the role and responsibilities of independent auditors.

[5] Accounting Series Release No. 123, March 23, 1972.

[6] Securities Exchange Act Release No. 33-5869 September 26, 1977.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.308 Form 8–K, for current reports.

* * * * *

Item 4. *Changes in Registrant's Certifying Accountant.* * * *

(b) State the reason(s) for the change in certifying accountant.

(c) was (b) * * *

(d) was (c) * * *

(e) was (d) * * *

(f) State whether such change(s) in certifying accountant were considered, recommended or approved by the Board of Directors or an audit or similar committee thereof.

* * * * * *

These amendments are proposed to be adopted pursuant to authority in Sections 12, 13, 15(d), and 23(a) (15 U.S.C. 781, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934. Pursuant to Section 23(a)(2) of the Securities Exchange Act of 1934 the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 26, 1977.

[FR Doc.77-28913 Filed 9-30-77;8:45 am]

[8010-01]

[17 CFR Part 240]

[Release Nos. 33-5869, 34-13990, 35-20189, IC-9945]

DISCLOSURE OF RELATIONSHIPS WITH INDEPENDENT PUBLIC ACCOUNTANTS

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to adopt rules which would require disclosure in a company's proxy materials of (1) the services provided during the last fiscal year by the company's independent auditors and the related fees, (2) whether the board of directors or audit committee has approved all services, and (3) the company's revenues derived from the independent auditors. The proposed disclosures would provide objective evidence for helping investors to formulate an opinion as to the independence of the auditors. The Commission is also soliciting information and comments on the nature of services auditors provide their audits clients.

DATE: Comments should be submitted on or before November 30, 1977.

ADDRESS: Comments should refer to File S7-721 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell, (202-376-8019), Office of the Chief Accountant or J. Rowland Cook, (202-755-1750), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 2-01 (Qualifications of Accountants) of Regulation S-X (17 CFR 210.2-01) requires auditors to be in fact independent in order to be recognized as independent by the Commission.

This rule states in part:

In determining whether an accountant may in fact be not independent with respect to a particular person, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Commission.

The reports of auditors provide assurance of the reliability of financial statements filed with the Commission and are relied upon by the Commission in administering the securities laws. The independence of auditors is a critical element of the system that has been in effect since the Securities Acts were enacted over 40 years ago.

PRIOR COMMISSION ACTIONS

The Commission has taken several steps in past years to assist auditors in strengthening their independence. These include Accounting Series Releases (ASR) Nos. 47 (11 FR 10930), 81 (23 FR 9777), and 126 (37 FR 14294) which provide guidelines and examples of relationships between registrants and auditors which the Commission or its staff concluded resulted in a lack of necessary independence.

Since 1971 the Commission has required disclosure of disagreements between registrants and displaced auditors which could have required or did require mention in the auditor's report. In 1975 the Commission strengthened this rule and in addition required disclosure in proxy statements of whether the auditors would be present at the stockholders' meeting with the opportunity to make a statement and whether they are expected to be available to answer stockholders' questions with respect to the audited financial statements.

In a concurrent release the Commission has issued for comment a proposed rule, No. 33-5868 [42 FR 53633], which would require that the reasons for a company changing its auditors be disclosed in a public report filed with the Commission and in its next proxy statement.

The Commission continues to seek ways to further strengthen the independence of auditors. It is desirable for all public companies to have audit committees composed of independent directors and ways are being considered by which such committees might be encouraged or required.

The Commission is continuing to gather evidence of the types of services auditors provide their clients. Specific input on the range of services auditors provide their clients is solicited through this release. Interested persons are specifically requested to respond to the questions raised and supply any other information on this issue they believe may be useful to the Commission.

BACKGROUND

Various services provided by public accounting firms to their audit clients have been asserted to result in a lessening of the independence or appearance of independence of auditors.

The Commission on Auditors' Responsibilities (CAR) recently stated:

There is no evidence that provision of services other than auditing has actually impaired the independence of auditors. However, the belief of a significant minority of users that independence is impaired creates a major problem for the profession. Decisions on the other services offered and used should be made by individual public accounting firms and boards of directors of clients.[1]

The CAR summarizes "The Management Services Controversy" as follows:

A pronounced concern with providing management services to audit clients developed in the early 1960s when those services grew at a rapid rate. Since then, the AICPA has had two special committees study the problem. The first, the Ad hoc Committee on Independence (1969), considered only management services and the second, the Committee on Scope and Structure (1974), considered all other services. The AICPA's Ethics Division and Management Advisory Services Division have issued a number of pronouncements limiting the services that can be provided to audit clients.

Many others—primarily college professors—have surveyed user groups, independent auditors, and corporate executives to determine the extent of concern with the effect of management services on independence. The surveys have produced mixed and conflicting results, but generally they have shown that a significant minority of users are concerned about the potential conflict between management services and the audit function. The concern of users decreases as their familiarity with the nature of services offered by public accounting firms increases, and it diminishes substantially when the services are provided by different staff, such as a separate management services division. In general, corporate executives and auditors are less concerned than users. All three groups generally believe management services cause a less serious conflict than other factors such as "flexible" accounting principles or payment of the audit fee by the client.

That any large, although minority, segment of financial statement users views

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[1] "Report of Tentative Conclusions," The Commission on Auditors' Responsibilities, 1977, p. 92. (The Commission on Auditors' Responsibilities was established in October 1974 by the American Institute of Certified Public Accountants to study the role and responsibilities of independent auditors.)

management services as potenially reducing the auditor's independence must be a cause for concern. If the views of the minority were supported by empirical evidence of loss of independence, prohibition of management services would be essential.[2]

This concern has also been reflected in other forums.[3]

Some people believe that auditors should not provide any services other than auditing to their clients. Professors Mautz and Sharaf stated:

For the good of the profession, auditing must be recognized as a specialty separate from the remaining functions of public accountants. Accountants who serve as auditors should perform no other functions for their clients, and those who perform other functions should not engage in opinion audits. Our reason for so contending is the incompatibility of auditing with other services. We see auditing as something more than a skilled craft. Auditing is a quasi-judicial function and requires a type of independence entirely different from that required for the performance of any other public accounting type of service.[4]

It has also been observed that it is difficult to separate the functions of auditing from providing advice to management. A natural result of the audit process is suggestions to management for improvements in the company's accounting methods, procedures and controls. The auditor thus extends his role to advising management. This advice is generally considered desirable since the auditors' training and experience bring knowledge and expertise not necessarily available within many organizations. Accordingly, some believe that any lessening of independence as a result of such advice to management is more than offset by the benefits resulting from the auditors' expertise.

It has been argued that it is desirable for public accounting firms to provide certain services that result in employing persons with specialized skills who may also contribute to innovation and improvement in auditing methods and procedures. For instance, as a result of providing computerized accounting systems design, firms have had available the specialized skills of the employees providing such services to develop audit tools to be used in auditing computerizing accounting systems. If such services were not offered by the audit firm, it has been argued that audit quality might suffer. Accordingly, the public interest may be better served by permitting auditors to provide certain services even if it results in some lessening of the appearance of independence. Similarly, certain services (i.e., preparation of income tax returns) may best be provided by accountants who also perform audits since they possess the necessary skills, expertise, and knowledge of the client's financial transactions to most effectively fulfill the responsibilities attendant to the service. The auditors' expertise in certain areas may not be replaceable by practical means and the benefits to independence from prohibiting certain services might be more than offset by the resultant costs.

Various specific services have been suggested as lessening the auditors' independence when such services are rendered to audit clients. Some of these are actuarial services, tax advice and preparation of tax returns, recruiting of executives and placing former partners and employees with clients, plant layout and engineering, market research, and appraisal services.

Requests for Other Comments and Information

The Commission is continuing to gather evidence of the types of services auditors provide. Accordingly, specific responses are solicited from companies, auditors and other interested persons to the following items:

1. A description of each specific kind of service provided by public accounting firms.

2. Information indicating the extent of each such service. Public accounting firms are requested to furnish information as to the amount of fees from each service and the relationship to the audit function.

3. Information as to the reasons any previously provided service has been discontinued, any new service has been initiated, or any service that has been considered is not provided.

4. Should auditors be prohibited from providing their audit clients any non-audit services? If not, which particular services should be permitted? Should any permitted services be limited to a percentage of the audit fee? What is an appropriate limitation?

5. What attributes should be used to evaluate the effect on independence and the desirability of the service being offered by auditors?

6. What services are desirable for auditors to continue in order to maintain employees with specialized skills to contribute to improvements in auditing methods and procedures?

7. Should auditors be permitted to appear before regulatory bodies as experts on matters which affect their clients?

The responses to these matters will provide the Commission with important information in considering proposed rule-making relating to auditors' independence. Respondents are encouraged to supply any other information they believe useful to this issue.

Disclosure of Auditor Services, Fees and Relationships

The Commission on Auditors' Responsibilities has included a recommendation in its "Report of Tentative Conclusions" that "the nature and extent of other services provided by the auditor should be disclosed in proxy statements."[5] It further stated that:

As noted earlier, the concern of users that provision of other services impairs the auditor's independence decreases as their knowledge about the services increases. The best way to dispel concerns of any potential conflicts of interest is to disclose the facts. The proxy rules for publicly owned companies already require disclosure of the interests of management and others in certain transactions. The Commission (CAR) recommends that public companies also disclose, in the proxy statements issued to shareholders that include selection or ratification of the election of independent auditors, information on the nature of other services provided to the companies by their independent auditors.[6]

Disclosure in proxy statements of all services provided to public companies by their auditors and the related fees will provide objective evidence of the types and amounts of services being provided by auditors and rules to require this are proposed. Fees earned from affiliates are also proposed to be disclosed.

The case for disclosing audit fees when no other services were rendered is not as strong. However, arguments can be made that the absolute amount of the fees paid may be significant in that they can be compared to fees paid by similar companies. While the relationships may vary for a variety of reasons (e.g., poor internal control, centralization of accounting, number of operating divisions, etc.), the amount may serve as the basis for questions by shareholders. In addition the relative importance of the audit fee to the auditor may provide information as to the auditors' economic dependence on the company.[7] Further, the Commission believes it is appropriate for all of the relationships of the auditor and the company to be disclosed to shareholders and this includes the amount of audit fees paid.

The Commission believes that objectivity and independence are enhanced if the auditor deals with an audit committee of independent directors or the board of directors in determining services and fees. In order to provide investors with knowledge of whether the board of directors or audit committee has approved all services provided by the auditors, the Commission proposes to require disclosure of whether such approval has taken place.

The Commission is also concerned about the possible effect on the auditors'

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[2] Ibid., pp. 93 and 94.

[3] For example see "The Accounting Establishment," a staff study prepared by the Subcommittee on Reports, Accounting and Management of the Committee on Government Operations, United States Senate (December 1976) and the testimony before the Subcommittee at its public hearings in May and June of 1977.

[4] R. K. Mautz and Hussein A. Sharaf, "The Philosophy of Auditing," American Accounting Association, 1961, p. 228.

[5] "Report of Tentative Conclusions," The Commission on Auditors' Responsibilities, 1977, p. xxi.

[6] Ibid., p. 101.

[7] The American Institute of Certified Public Accountants (AICPA) has adopted a resolution providing that, among other things, firms file with the AICPA, available for public inspection, the number of SEC audit clients each of whose total domestic fees exceed 5 percent of total domestic firm fees and the percentage which each of these clients' fees represent to total domestic firm fees.

independence and objectivity of any understanding or agreement limiting the auditors' fee to an absolute amount. Accordingly, the proposed rule would require disclosure of any such agreement.

Services and products acquired from clients by auditors, if of a sufficient magnitude, may also be perceived as lessening independence. In order to provide investors with objective evidence of the relevant relationships between auditors and their clients, the Commission is also proposing that significant revenues of the company derived from its auditors be disclosed in the proxy statement.

Transactions between the company and its auditors that are on terms not customary in the industry or which differ from those offered other customers may also provide evidence that there has been a lessening of independence. Accordingly, the Commission proposes disclosure of such transactions.

The Commission has not defined its use of the word "customary." As it relates to the fees of the auditors, the Commission is interested in disclosure of situations where the auditor agrees to a fee significantly less than is normal in order to obtain the client or in response to criticism of prior services. The commission specifically requests comments on a better term or an improved definition of the term "customary."

An illustration of the proposed disclosure might be as follows:

Fees to A, B & C, the Company's independent accountants, for the audits for 1977 and 1976 and other services in 1977 were as follows (all of which have been approved by the Board's Audit Committee):

	Dollars
Examination of financial statements for year ended December 31, 1977 ($95 for 1976)	100
Limited review of quarterly reports	6
Preparation of corporate tax returns	20
Conferences with company's staff and tax examiners in connection with IRS examinations	20
Design of data processing system for factory payroll	25
Other *	15

* Includes items which are in the aggregate under 10 percent of total fees paid during year to A, B & C.

COMMISSION ACTION

Section 240.14a-101 of 17 CFR Part 240 is proposed to be amended by the addition of new subparagraphs (g) and (h) under Item 8 of Schedule 14A as given below:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a-101 Schedule 14A. Information required in proxy statement.[1]

* * * * *

Item 8. *Relationship with independent public accountants.* * * *

(g) The fee, or estimate, for examination of financial statements of the issuer and its affiliates for the two fiscal years most recently completed and the services, other than audit, provided to the issuer and its affiliates, officers and directors by the issuer's principal accountant during the issuer's last fiscal year together with the fee for each such service. Indicate also whether the issuer's Board of Directors or its audit committee has specifically approved all such audit and other services provided to the issuer.

Instructions. 1. Broad general categories such as "SEC matters," "tax matters" or "management advisory services" will not be deemed sufficiently specific.

2. Individual services which in the aggregate result in fees of less than 10 percent of the total fees incurred to the principal accountant during the last fiscal year may be combined and disclosed as "other."

3. Describe the circumstances and give details of any services provided by the issuer's independent accountant during the latest fiscal year that were billed at rates or terms that were not customary.

4. Describe any existing understanding or direct or indirect agreement that places a limit on current or future years' audit fees.

(h) The revenues of the issuer during the past fiscal year that are derived from the issuer's principal accountant (and from the partners or owners if the principal accountant is other than an individual practitioner).

Instructions. 1. Activities that result in revenues of less than 20 percent of the total fees disclosed in (g) need not be disclosed.

2. Include a description of each activity resulting in revenue and the amount from each.

3. Notwithstanding the above exemption, describe the terms of any transactions not in the ordinary course of business or if not at trade terms customary in the industry and with other customers.

* * * * *

These amendments are proposed to be adopted pursuant to authority in Sections 12, 13, 15(d), and 23(a) (15 U.S.C. 781, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934. Pursuant to Section 23(a)(2) of the Exchange Act the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 26, 1977.

[FR Doc.77-28914 Filed 9-30-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[CC:LR-175-76]

INCOME TAX

Livestock Sold on Account of Drought

Correction

In FR Doc.77-27291 appearing at page 47221 in the issue for Tuesday, September 20, 1977, the following correction should be made.

On page 47221, third column, line 21, the figure, "500 head", should read, "550 head".

[3710]

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 208]

USE OF STORAGE ALLOCATED FOR FLOOD CONTROL AND NAVIGATION PURPOSES

Proposed Revision of Regulations

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Proposed rule.

SUMMARY: This revision of 33 CFR 208.11 regulations prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation. The revised regulations are applicable to dam and reservoir projects licensed, maintained and operated under provisions of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A)), Pub. L. 83-436, and other similar authorizing legislation; as well as to reservoir projects constructed wholly or in part with Federal funds as directed by Section 7 of the Flood Control Act of 1944. These proposed regulations are intended to establish an understanding between project owners, operating agencies and the Corps of Engineers with regard to certain activities and responsibilities concerning water control management throughout the nation in the interest of flood control and navigation.

DATES: Comments must be received on or before October 31, 1977.

ADDRESSES: Comments to HQDA (DAEN-CWE-HY) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314 (202-693-7330).

SUPPLEMENTARY INFORMATION: Some special Acts of the Congress provide for construction and licensing of dam and reservoir projects by non-Federal agencies or private firms with the stipulation that the operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and/or navigation. Frequently, no Federal funds are involved so that Section 7 of the 1944 Flood Control Act does not apply. However, if issuance of regulations by the Secretary of the Army is required by the authority under which flood control or navigation provisions are included as functions of the specific project, procedures similar to those followed in establishing regulations under Section 7 of the 1944 Flood Control Act will usually be followed for administrative purposes:

The proposed revisions to the § 208.11 Regulations, published in the FEDERAL

REGISTER Vol. 41, No. 97 on May 18, 1976, (41 FR 20401) include the following changes:

(a) The title of § 208.11 will be changed to "Regulations for Use of Storage Allocated for Flood Control or Navigation, and/or Project Operation at Reservoirs Subject to Prescription of Rules and Regulations by the Secretary of the Army in the Interest of Flood Control and Navigation."

(b) The Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)) and Section 9 of Pub. L. 83-436, 68 Stat. 303 are being added at Authority.

(c) At the second sentence of § 208.11 (a), PURPOSE, the phrase "constructed wholly or in part with Federal funds" is being deleted.

(d) Two new paragraphs are being added at § 208.11(b) as follow:

(1) "Section 18 of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A)), directs the operation of any navigation facilities built under the provision of that Act, be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigation facilities which may be constructed as part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army, * * *

(2) Variously numbered articles of certain Federal Power Commission licenses require the licensee to operate the project in accordance with an agreement to be entered into by the licensee and the Corps of Engineers for the purpose of determining detailed operating procedures for use during flood periods, such as Article 33 of FPC license No. 2009 which states:

"The Licensee shall operate its project in such manner as the Chief of Engineers, Department of the Army, or his authorized representative may prescribe in order that the flood control and/or other benefits from present and future improvements under the jurisdiction of the Corps of Engineers as authorized by Congress in the * * * River Basin will not be nullified or substantially impaired by operation of the Licensee's project.

(e) A new paragraph is being added at § 208.11(b)(3) as follows: "Section 9 of Pub. L. 436-83d Congress (68 Stat. 303) provides for the development of the Coosa River, Alabama and Georgia, and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows: The operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and navigation."

(f) The present § 208.11(b)(2) is being renumbered § 208.11(b)(4). A new sentence is being added at the beginning of § 208.11(b)(4) as follows: "This regulation will also be applicable to dam and reservoir projects, operated under provisions of other existing and future legislative acts wherein the Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation and not specifically excluded by other sections of this regulation."

(g) Numerous minor grammatical changes are being made throughout the Regulation commensurate with the broadened authority of the added Congressional Acts.

(h) Pertinent project data for the following projects are being added to the list of projects in § 208.11(d)(11).

(1) Corps of Engineers South Pacific Division area:

(i) Del Valle Dam and Reservoir
(ii) Wanship Dam & Rockport Lake.
(iii) Echo Dam & Reservoir.
(iv) Lost Creek Dam & Reservoir.
(v) East Canyon Dam & Reservoir.
(vi) Pineview Dam & Reservoir.

(2) Corps of Engineers Missouri River Division area: Canyon Ferry Dam & Reservoir.

(3) Corps of Engineers South Atlantic Division area:

(i) Gaston and Roanoke Rapids Dam & Reservoir Projects.
(ii) Smith Mountain and Leesville Dam & Reservoir Projects.
(iii) H. Neely Henry Dam & Reservoir.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impactment Statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority Pub. L. 90-483).

Dated: September 20, 1977.

CHARLES I. MCGINNIS,
Major General, USA,
Director of Civil Works.

PART 208—FLOOD CONTROL REGULATIONS

§ 208.11 Regulations for Use of Storage Allocated for Flood Control or Navigation and/or Project Operation at Reservoirs subject to Prescription of Rules and Regulations by the Secretary of the Army in the Interest of Flood Control and Navigation.

(a) *Purpose. Revision of policy and procedures.* This regulation prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation, except projects owned and operated by the Corps of Engineers; the International Boundary and Water Commission, United States and Mexico; and those under the jurisdiction of the Columbia River Treaty. The intent of this regulation is to establish an understanding between project owners, operating agencies, and the Corps of Engineers.

(b) *Policy.* The basic policy of the Corps of Engineers for carrying out the Congressional mandate of the cited authority is set forth below:

(1) Section 7 of the Flood Control Act of 1944 (58 Stat. 890, 33 U.S.C. 709) directs the Secretary of the Army to prescribe regulations for flood control and navigation in the following manner:

Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department.

(2) Federal Power Commission Licenses.

(i) Section 18 of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A)) directs the operation of any navigation facilities built under the provision of that Act be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigation facilities which may be constructed as part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army * * *

(ii) Variously numbered articles of certain Federal Power Commission licenses required the licensee to operate the project in accordance with an agreement to be entered into by the licensee and the Corps of Engineers for the purpose of determining detailed operating procedures for use during flood periods, such as Article 33 of FPC license No. 2009 which states:

The Licensee shall operate its project in such manner as the Chief of Engineers, Department of the Army, or his authorized representative may prescribe in order that the flood control and/or other benefits from present and future improvements under the jurisdiction of the Corps of Engineers as authorized by Congress in the * * * River Basin will not be nullified or substantially impaired by operation of the Licensee's project.

(3) Section 9 of Pub. L. 436-83d Congress (68 Stat. 303) provides for the development of the Coosa River, Alabama and Georgia, and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows:

The operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and navigation.

(4) This Regulation will also be applicable to dam and reservoir projects operated under provisions of other existing and future legislative acts wherein the

Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation and not specifically excluded by other sections of this regulation. The Chief of Engineers, U.S. Army Corps of Engineers, is designated the duly authorized representative of the Secretary of the Army to exercise the authority set out in the Congressional Acts. This regulation will normally be implemented by letters of understanding between the Corps of Engineers and project owner and will incorporate the provisions of such letters of understanding prior to the time construction renders the project capable of significant impoundment of water. A water control agreement signed by both parties will follow when deliberate impoundment first begins or * * * at such time as the responsibilities of any Corps-owned projects may be transferred to another entity. Promulgation of this regulation for a given project will occur at such time as the name of the project appears in the FEDERAL REGISTER in accordance with § 208.11(d)(11). When agreement on a water control plant cannot be reached between the Corps and the project owner after coordination with all interested parties, the project name will be entered in the FEDERAL REGISTER and the Corps of Engineers plan will be the official water control plan until such time as differences can be resolved.

(c) *Scope and terminology.* This regulation applies to Federal authorized flood control and/or navigation storage projects, and to non-Federal projects which require the Secretary of the Army to prescribe regulations as a condition of the license, permit or legislation, during the planning, design and construction phases, and throughout the life of the project. In compliance with the authority cited above, this regulation defines certain activities and responsibilities concerning water control management throughout the nation in the interest of flood control and navigation. In carrying out the conditions of this regulation, the owner and/or operating agency will comply with applicable provisions of Pub. L. 85-624, the Fish and Wildlife Coordination Act of 1958, and Pub. L. 92-500, the Federal Water Pollution Control Act Amendment of 1972. This regulation does not apply to local flood protection works governed by § 208.10, Title 33 of the Code and excludes small reservoirs containing flood control or navigation storage of less than 12,500 acre-feet, unless required by specific law or conditions of a license or permit.

(1) The terms "reservoir" and "project" as used herein include all water resource impoundment projects constructed or modified, including natural lakes, that are subject to this regulation.

(2) The term "project owner" refers to the entity responsible for maintenance, physical operation, and safety of the project, and for carrying out the water control plan in the interest of flood control and/or navigation as prescribed by the Corps of Engineers. Special arrangements may be made by the project owner for "operating agencies" to perform these tasks.

(3) The term "letter of understanding" as used herein includes statements which consummate this regulation for any given project and define the general provisions or conditions of the local sponsor, or owner, cooperation agreed to in the authorizing legislative document, and the requirements for compliance with Section 7 of the 1944 Flood Control Act, Section 18 of the Federal Power Act or other special Congressional Act. This information will be specified in the water control plan and manual. The letter of understanding will be signed by a duly authorized representative of the Chief of Engineers and the project owner. A "field working agreement" may be substituted for a letter of understanding, provided that the specified minimum requirements of the latter, as stated above, are met.

(4) The term "water control agreement" refers to a compilation of water control criteria, guidelines, diagrams, release schedules, rule curves and specifications that basically govern the use of reservoir storage space allocated for flood control or navigation and/or release functions of a water control project for these purposes. In general, they indicate controlling or limiting rates of discharge and storage space required for flood control and/or navigation, based on the runoff potential during various seasons of the year.

(5) For the purpose of this regulation, the term "water control plan" is limited to the plan of regulation for a water resources project in the interest of flood control and/or navigation. The water control plan must conform with proposed allocations of storage capacity and downstream conditions or other requirements to meet all functional objectives of the particular project, acting separately or in combination with other projects in a system.

(6) The term "real-time" denotes the processing of current information or data in a sufficiently timely manner to influence a physical response in the system being monitored and controlled. As used herein the term connotes * * * the analyses for an execution of water control decisions for both minor and major flood events and for navigation, based on prevailing hydrometeorological and other conditions and constraints, to achieve efficient management of water resource systems.

(d) *Procedures.*—(1) *Conditions during project formulation.* During the planning and design phases, the project owner should consult with the Corps of Engineers regarding the quantity and value of space to reserve in the reservoir for flood control and/or navigation purposes, and for utilization of the space, and other requirements of the license, permit or conditions of the law. Relevant matters that bear upon flood control and navigation accomplishment include: runoff potential, reservoir discharge capability, downstream channel characteristics, hydrometeorological data collection, flood hazard, flood damage characteristics, real estate acquisition for flowage requirements (fee and easement), and resources required to carry out the water control plan. Advice may also be sought on determination of and regulation for the probable maximum or other design flood under consideration by the project owner to establish the quantity of surcharge storage space, and freeboard elevation of top of dam or embankment for safety of the project.

(2) *Corps of Engineers involvement.* If the project owner is responsible for real-time implementation of the water control plan, consultation and assistance will be provided by the Corps of Engineers when appropriate and to the extent possible. During any emergency that affects flood control and/or navigation, the Corps of Engineers may temporarily prescribe regulation of flood control or navigation storage space on a day-to-day (real-time) basis without request of the project owner. Appropriate consideration will be given for other authorized project functions. Upon refusal of the project owner to comply with regulations prescribed by the Corps of Engineers, a letter will be sent to the project owner by the Chief of Engineers or his duly authorized representative describing the reason for the regulations prescribed, events that have transpired, and notification that the project owner is in violation of the Code of Federal Regulations. Should an impasse arise, in that the project owner or the designated operating entity persists in noncompliance with regulations prescribed by the Corps of Engineers, measures may be taken to assure compliance.

(3) *Corps of Engineers Implementation of Real-Time Water Control Decisions.* The Corps of Engineers may prescribe the continuing regulation of flood control storage space for any project subject to this regulation on a day-to-day (real-time) basis. When this is the case, consultation and assistance from the project owner to the extent possible will be expected. Special requests by the project owner, or appropriate operating entity, are preferred before the Corps of Engineers offers advice on real-time regulation during surcharge storage utilization.

(5) *Water control agreement.* (i) A water control diagram (graphical) will be prepared by the Corps of Engineers for each project having variable space reservation for flood control and/or navigation during the year; e.g., variable seasonal storage, joint-use space, or other rule curve designation. Reservoir inflow parameters will be included on the diagrams when appropriate. Concise notes will be included on the diagrams prescribing the use of storage space in terms of release schedules, runoff, nondamaging or other controlling flow rates downstream of the damsite, and other major factors as appropriate. A water control release schedule will be prepared in tabular form for projects that do not have variable space reservation for flood control and/or naviga-

tion. The water control diagram or release schedule will be signed by a duly authorized representative of the Chief of Engineers, the project owner, and the designated operating agency, and will be used as the basis for carrying out this regulation. Each diagram or schedule will contain a reference to this regulation.

(ii) When deemed necessary by the Corps of Engineers, information given on the water control diagram or release schedule will be supplemented by appropriate text to assure mutual understanding on certain details or other important aspects of the water control plan not covered in this regulation, on the water control diagram or in the release schedule. This material will include clarification of any aspects that might otherwise result in unsatisfactory project performance in the interest of flood control and/or navigation. Supplementation of the agreement will be necessary for each project where the Corps of Engineers exercises the discretionary authority to prescribe the flood control regulation on a day-to-day (real-time) basis. The agreement will include delegation of the responsibility. The document should also cite, as appropriate, Section 7 of the 1944 Flood Control Act, Section 18 of the Federal Power Act and/or other Congressional legislation authorizing construction and/or directing operation of the project.

(iii) All flood control regulations published in the FEDERAL REGISTER under this section (Part 208) of the Code prior to the date of this publication which are listed in § 208.11(e) are hereby superseded.

(iv) Nothing in this Regulation prohibits the promulagtion of specific regulations for a project in compliance with the authorizing Acts, when agreement on acceptable regulations cannot be reached between the Corps of Engineers and the owner.

(6) *Hydrometeorological instrumentation.* The project owner will provide instrumentation in the vicinity of the damsite and will provide communication equipment necessary to record and transmit hydrometeorological and reservoir data to all appropriate Federal authorities on a real-time basis. For those projects where the owner retains responsibility for real-time implementation of the water control plan, the owner will also provide or arrange for the measurement and reporting of hydrometeorological parameters required within and adjacent to the watershed and downstream of the damsite, sufficient to regulate the project for flood control and/or navigation in an efficient manner. When data collection stations outside the immediate vicinity of the damsite are required, and funds for installation, observation, and maintenance are not available from other sources, the Corps of Engineers may agree to share the costs for such stations with the project owner. Availability of funds and urgency of data needs are factors which will be considered in reaching decisions on cost sharing.

(7) *Project safety.* The project owner is responsible for the safety of the dam and appurtenant facilities and for regulation of the project during surcharge storage utilization. Emphasis upon the safety of the dam is especially important in the event surcharge storage is utilized, which results when the total storage space reserved for flood control is exceeded. Any assistance provided by the Corps of Engineers concerning surcharge regulation is to be utilized at the discretion of the project owner, and does not relieve the owner of the responsibility for safety of the project.

(8) *Notification of the general public.* The Corps of Engineers and other interested Federal and State agencies, and the project owner will jointly sponsor public involvement activities, as appropriate, to fully apprise the general public of the water control plan. Public meetings or other effective means of notification and involvement will be held, with the initial meeting being conducted as early as practicable but not later than the time the project first becomes operational. Notice of the initial public meeting shall be published once a week for three consecutive weeks in one or more newspapers of general circulation published in each county covered by the water control plan. Such notice shall also be used when appropriate to inform the public of modifications in the water control plan. If no newspaper is published in a county, the notice shall be published in one or more newspapers of general circulation within that county. For the purposes of this section a newspaper is one qualified to publish public notices under applicable state law. Notice shall be given in the event significant problems are anticipated or experienced that will prevent carrying out the approved water control plan or in the event that an extreme water condition is expected that could produce severe damage to property or loss of life. The means for conveying this information shall be commensurate with the urgency of the situation. The water control manual will be made available for examination by the general public upon request at the appropriate office of the Corps of engineers, project owner or designated operating agency.

(9) *Other generalized requirements for flood control and navigation.* (i) Storage space in the reservoirs allocated for flood control and navigation purposes shall be kept available for those purposes in accordance with the water control agreement, and the plan of regulation in the water control manual.

(ii) Any water impounded in the flood control space defined by the water control agreement shall be evacuated as rapidly as can be safely accomplished without causing downstream flows to ex-

ceed the controlling rates; i.e., releases from reservoirs shall be restricted insofar as practicable to quantities which, in conjunction with uncontrolled runoff downstream of the dam, will not cause water levels to exceed the controlling stages currently in force. Although conflicts may arise with other purposes, such as hydro-power, the plan or regulation may require releases to be completely curtailed in the interest of flood control or safety of the project.

(iii) Nothing in the plan of regulation for flood control shall be construed to require or allow dangerously rapid changes in magnitudes of releases. Releases will be made in a manner consistent with requirements for protecting the dam and reservoir from major damage during passage of the maximum design flood for the project.

(iv) The project owner shall monitor current reservoir and hydrometeorological conditions in and adjacent to the watershed and downstream of the damsite, as necessary. This and any other pertinent information shall be reported to the Corps of Engineers on a timely basis, in accordance with standing instructions to the damtender or other means requested by the Corps of Engineers.

(v) In all cases where the project owner retains responsibility for real-time implementation of the water control plan, he shall make current determinations of: Reservoir inflow, flood control storage utilized, and scheduled releases. He shall also determine storage space and releases required to comply with the water control plan prescribed by the Corps of Engineers. The owner shall report this information on a timely basis as requested by the Corps of Engineers.

(vi) The water control plan is subject to temporary modification by the Corps of Engineers if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

(vii) The project owner may temporarily deviate from the water control plan in the event an immediate short-term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious hazards. Such actions shall be immediately reported by the fastest means of communication available. Actions shall be confirmed in writing the same day to the Corps of Engineers and shall include justification for the action. Continuation of the deviation will require the express approval of the Chief of Engineers, or his duly authorized representative.

(vii) Advance approval of the Chief of Engineers, or his duly authorized representative, is required prior to any deviation from the plan of regulation prescribed or approved by the Corps of Engineers in the interest of flood control and/or navigation, except in emergency situations provided for in paragraph (d) (9) (vii) of this section. When conditions appear to warrant a prolonged deviation from the approved plan, the project owner and the Corps of Engineers will jointly investigate and evaluate the proposed deviation to insure that the overall integrity of the plan would not be unduly compromised. Approval of prolonged deviations will not be granted unless such investigations and evaluations have been conducted to the extent deemed necessary by the Chief of Engineers, or his designated representatives, to fully substantiate the deviation.

(10) *Revisions.* The water control plan and all associated documents will be revised by the Corps of Engineers, as necessary, to reflect changed conditions that come to bear upon flood control and navigation, e.g., reallocation of reservoir storage space due to sedimentation or transfer of storage space to a neighboring project. Revision of the water control plan, water control agreement, water control diagram, or release schedule requires approval of the Chief of Engineers or his duly authorized representative. Each such revision shall be effective upon the date specified in the approval. The original (signed document) water control agreement shall be kept on file in the Office, Chief of Engineers, Department of the Army, Washington, D.C. Copies of the agreement shall be kept on file and may be obtained from the office of the project owner, or from the office of the appropriate Division Engineer, Corps of Engineers.

(11) *Federal Register.* The following information for each project subject to Section 7 of the 1944 Flood Control Act and other applicable Congressional acts shall be published in the FEDERAL REGISTER prior to the time the projects becomes operational and prior to any significant impoundment before project completion or at such time as the responsibility for physical operation and maintenance of the Corps of Engineers owned projects is transferred to another entity: (i) Reservoir, dam, and lake names, (ii) stream, county and state corresponding to the damsite location, (iii) the maximum current storage space in acre-feet to be reserved exclusively for flood control and/or navigation purposes, or any multiple-use space (intermingled) when flood control or navigation is one of the purposes, with corresponding elevations in feet above mean sea level, and area in acres, at the upper and lower limits of said space, (iv) the name of the project owner, and (v) Congressional legislation authorizing the project for Federal participation.

(e) *List of projects.* The following tables, "Pertinent Project Data—§ 208.11 Regulation," show the pertinent data for projects which are subject to this regulation.

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

NAME	STREAM	COUNTY & STATE	EXCLUSIVE					MULTIPLE-USE					PROJECT OWNER	AUTH. LEGIS.
			FLOOD CONTROL/NAVIGATION					FLOOD CONTROL/NAVIGATION						
			STORAGE	ELEV. LIMITS		AREA		STORAGE	ELEV. LIMITS		AREA			
			1000 ac-ft.	feet m.s.l. UPPER	LOWER	acres UPPER	LOWER	1000 ac-ft.	UPPER	LOWER	UPPER	acres LIMITS		
Alpine Dam	Keith Creek	Winnebago, Il	0.585	796.0	764.0	51.88	0	-	-	-	-	-	City of Rock-Ford, Il	PWA Proj.
Agency Valley Dam & Res.	N. Fork Malheur River	Malheur, Or.	-	-	-	-	-	60.0	3340.0	3263.21	1900	0	Bureau of Rec.	PL 68-292
Bear Creek Dam	Bear Creek	Marion & Ralls, Mo.	8.7	546.5	520.0	540	0	-	-	-	-	-	City of Hannibal, Mo.	PL 83-780
Big Dry Creek and Diversion	Big Dry Creek and Dog Creek	Fresno, Ca.	16.25	425.0	393.0	1530	0	-	-	-	-	-	Reclamation Board Ca.	PL 77-228
Bonny Dam & Res.	S. Fork Republican River	Yuma, Co.	129.0	3710.0	3672.0	5,036	2042	-	-	-	-	-	Bureau of Rec.	PL 78-534
Boysen Dam & Res.	Wind River	Fremont, Wy.	150.0	4732.2	4725.0	22116	19560	150	4725.0	4717.0	19560	16955	Bureau of Rec.	PL 78-534
Bully Creek Dam & Reservoir	Bully Creek	Malheur, Or.	-	-	-	-	-	31.65	2523.0	2456.8	1082	140	Bureau of Rec.	PL 86-248
Camanche Dam & Reservoir	Mokelumne	San Joaquin,	-	-	-	-	-	200.0	235.5	205.1	7600	5507	East Bay Mun Util Dist, Oakland, Ca.	PL 96-645
Canyon Ferry Dam & Lake	Missouri River	Lewis & Clark	104,276	3800.0	3797.0	35,181	34,435	799,124	3797.0	3700.0	34,435	24,126	Bureau of Rec.	PL 78-534
Causey Dam & Reservoir	SF Odgen River	Weber, UT	-	-	-	-	-	6.9	5692.0	5607.7	136	35	Bureau of Rec.	PL 81-273
Cedar Bluff Dam & Reservoir	Smoky Hill River	Trego, Ks.	192.0	2166.0	2144.0	10790	6869	-	-	-	-	-	Bureau of Rec.	PL 78-534
Clark Canyon Dam & Reservoir	Beaverhead River	Beaverhead, Mt.	79.1	5560.4	5546.1	5903	5160	50.5	5546.1	5535.7	5160	4496	Bureau of Rec.	PL 78-534
Del Valle Dam & Reservoir	Alameda, Creek	Alameda, CA	37.0	745.0	703.1	1060	710	1.0	703.1	702.2	710	700	Calif. Dept. of Water Resources	PL 87-874

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION

NAME	STREAM	STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Devil Creek Dam & Reservoir	Devil Creek, Malad River	Oneida, Id.	-	-	-	-	-	2.0	5172.4	5156.1	140	100	Malad Valley Irrigating Co.	PL 84-984
East Canyon Dam & Reservoir	East Canyon, Creek	Morgan, UT	-	-	-	-	-	48.0	5705.5	5577.0	684	127	Bureau of Rec.	PL 81-273
Echo Dam & Reservoir	Weber, River	Summit, UT	-	-	-	-	-	74.0	5560.0	5450.0	1455	0	Bureau of Rec.	PL 81-273
Emigrant Dam & Reservoir	Emigrant Creek	Jackson, Or.	39.0	2241.0	2131.5	801	80	-	-	-	-	-	Bureau of Rec.	PL 83-606
Enders Dam & Reservoir	Frenchman Creek	Chase, Nb.	30.0	3127.0	3112.3	2405	1707	-	-	-	-	-	Bureau of Rec.	PL 78-534
Folsom Dam & Lake	American River	Sacramento, Ca	-	-	-	-	-	400.0	466.0	427.0	11450	9040	Bureau of Rec.	PL 81-356
Friant Dam & Res (Millerton Lake)	San Joaquin River	Fresno, Ca.	-	-	-	-	-	390.0	578.0	466.3	4850	2101	Bureau of Rec.	PL 75-392 & PL 76-868
Gaston-Roanoke Rapids Dam & Reservoir	Roanoke River	Northampton & Halifax, N.C.	63,000	203.0	200.0	22,500	20,300	-	-	-	-	-	Virginia Elec & Power Co.	Fed Power Act
Glen Elder Dam & Waconda Lake	Solomon River	Mitchell, Ks.	722.0	1488.3	1455.6	33682	12602	-	-	-	-	-	Bureau of Rec.	PL 78-534 & PL 79-526
Glendo Dam & Reservoir	North Platte River	Platte, Wy.	271.9	4653.0	4635.0	17986	12365	-	-	-	-	-	Bureau of Rec.	PL 78-534
H. Neely Henry Dam & Reservoir	Coosa River	St. Clair & Calhoun, Al.	-	-	-	-	-	52,000	508	502.5	11,200	7,500	Alabama Power Co.	PL 83-436
Heart Butte Dam & Lake Tschida	Heart River	Grant, N.D.	150.0	2094.5	2064.5	6625	3400	-	-	-	-	-	Bureau of Rec.	PL 78-534
Hoover Dam & Lake Mead	Colorado River	Clark NV & Mohave, Az.	1500.0	1229.0	1219.6	162700	156500	15853.0	1219.6	1083.0	156500	83500	Bureau of Rec.	PL 70-642
Hungry Horse Dam & Reservoir	S. Fork Flathead River	Flathead, Mt.	2982.0	3560.0	3336.0	23800	5400	-	-	-		-	Bureau of Rec.	PL 78-329

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft.	EXCLUSIVE ELEV. LIMITS feet m.s.l. UPPER	EXCLUSIVE ELEV. LIMITS feet m.s.l. LOWER	EXCLUSIVE AREA acres UPPER	EXCLUSIVE AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft.	MULTIPLE-USE ELEV. LIMITS feet m.s.l. UPPER	MULTIPLE-USE ELEV. LIMITS feet m.s.l. LOWER	MULTIPLE-USE AREA acres UPPER	MULTIPLE-USE AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Jamestown Dam & Reservoir	James River	Stutsman, N.D	185.4	1454.0	1432.67	13206	2555	6:6	143?67	1429.8	2555	2085	Bureau of Rec.	PL 78-534
Keyhole Dam & Reservoir	Belle Fourche	Crook, Wy.	140.2	4111.5	4099.3	13686	9394	-	-	-	-	-	Bureau of Rec.	PL 78-534
Kirwin Dam & Reservoir	N. Fork Solomon River	Phillips, Ks.	215.115	1757.3	1729.25	10640	5080	-	-	-	-	-	Bureau of Rec.	PL 78-534
Lewis M. Smith Dam & Reservoir	Sipsey Fork Black Warrier River	Cullman & Walker, Al.	280,600	522	510	25,700	21,200	-	-	-	-	-	Alabama Power Co.	Fed. Power Act
Little Wood River Dam & Reservoir	Little Wood River	Blain, Id.	30.0	5237.3	5127.8	574	0	-	-	-	-	-	Bureau of Rec.	PL 84-993
Logan Martin Dam & Reservoir	Coosa River	Talladega, Al	245.3	477	465	26310	15260	-	-	-	-	-	Alabama Power Co.	PL 83-436
Los Banos Dam & Detention Res.	Los Banos Creek	Merced, Ca.	-	-	-	-	-	14.0	353.5	327.8	619	467	Bureau of Rec.	PL 86-488
Lost Creek Dam & Res.	Lost Creek	Morgan, UT	-	-	-	-	-	20.0	6005.0	5912.0	365	93	Bureau of Rec.	PL 81-273
Lovewell Dam & Reservoir	White Rock Creek	Jewell, Ks.	50.0	1595.3	1587.6	5025	2986	-	-	-	-	-	Bureau of Rec.	PL 78-534
Markham Ferry Dam & Lake Wash E. Hudson	Grand (Neosho) River	Mayes, Ok.	244.2	636.0	619.0	18800	10900	-	-	-	-	-	Grand River Dam Authority	PL 76-476
Medicine Creek Dam & Harry Strunk Lake	Medicine Creek	Frontier, Nb.	52.0	2386.2	2366.1	3465	1850	-	-	-	-	-	Bureau of Rec.	PL 78-534
New Exchequer Dam & Lake McClure	Merced River	Tuolomne, Ca.	-	-	-	-	-	400.0	867.0	799.7	7110	4849	Merced Irrigation Dist	PL 86-645
Norton Dam & Reservoir	Prairie Dog Creek	Norton, Ks.	100.0	2331.4	2304.3	5316	2181	-	-	-	-	-	Bureau of Rec.	PL 78-534

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION					MULTIPLE-USE FLOOD CONTROL/NAVIGATION					PROJECT OWNER	AUTH. LEGIS.
			STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER		
Ochoco Dam & Reservoir	Ochoco Creek	Crook, Or.	51.4	3136.2	3048.1	1150	120	-	-	-	-	-	Bureau of Rec.	PL 84-992
Oroville Dam & Lake	Feather River	Butte, Ca.	-	-	-	-	-	750.0	900.0	848.5	15800	13346	Calif. Dept of Water Resources	PL 85-500
Pactola Dam & Reservoir	Rapid Creek	Pennington, S.D.	43.0	4621.5	4580.2	1232	860	-	-	-	-	-	Bureau of Rec.	PL 78-534
Palisades Dam & Reservoir	Snake River	Bonneville, Id.	1202.0	5620.0	5452.43	16100	2170	-	-	-	-	-	Bureau of Rec.	PL 81-864
Pineview Dam & Reservoir	Ogden River	Weber, UT	-	-	-	-	-	110.0	4900.0	4818.0	2874	0	Bureau of Rec.	PL 81-273
Platora Dam & Reservoir	Conejos River	Conejos, Co.	6.0	10034.0	10027.5	947	920	540	10027.5	994.5	920	0	Bureau of Rec.	PL 76-640
Prineville Dam & Reservoir	Crooked Creek	Crook, Or.	153.0	3234.8	3112.0	2990	120	-	-	-	-	-	Bureau of Rec.	PL 84-992
Prosser Creek & Reservoir	Prosser Creek	Nevada, Ca.	-	-	-	-	-	20.0	5741.2	5703.7	745	334	Bureau of Rec.	PL 84-858
Red Willow Dam & Hugh Butler Lake	Red Willow Creek	Frontier, Nb.	50.0	2604.9	2581.8	2682	1629	-	-	-	-	-	Bureau of Rec.	PL 78-534 & PL 85-783
Savage River Dam & Reservoir	Savage River	Garrett, Md.	-	-	-	-	-	16.028	1468.5	1400.0	366	127	Upper Potomac River Commission	PL 79-526
Shadehill Dam & Reservoir	Grand River	Perkins, S.D.	217.7	2302.2	2272.0	9900	4800	-	-	-	-	-	Bureau of Rec.	PL 78-534
Shasta Dam & Lake	Sacremento River	Shasta, Ca.	-	-	-	-	-	1300.0	1067.0	1018.6	29570	23894	Bureau of Rec.	PL 75-392 & PL 76-868
Smith Mtn & Leesville Dam & Res.	Roanoke River	Bedford, Campbell & Pittsylvania, Va.	-		-	-	-	(No Specific FC/Nav. Storage Allocation)					Appalachian Power Co.	Fed. Power Act.

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE					MULTIPLE-USE					PROJECT OWNER	AUTH. LEGIS.
			FLOOD CONTROL/NAVIGATION					FLOOD CONTROL/NAVIGATION						
			STORAGE	ELEV. LIMITS		AREA		STORAGE	ELEV. LIMITS		AREA			
			1000 ac-ft.	feet m.s.l. UPPER	LOWER	acres UPPER	LOWER	1000 ac-ft.	feet m.s.l. UPPER	LOWER	acres UPPER	LOWER		
Trenton Dam & Reservoir	Republican River	Hitchcock, Nb.	134.0	2773.0	2752.0	7975	4974	-	-	-	-	-	Bureau of Rec.	PL 78-534
Twitchell Dam & Reservoir	Cuyama River	Santa Barbara, Ca.	89.0	651.5	623.0	3690	2650	-	-	-	-	-	Bureau of Rec.	PL 83-774
Wanship Dam & Rockport Lake	Weber River	Summit, UT	-	-	-	-	-	61.0	6037.0	5930.0	1077	121	Bureau of Rec.	PL 81-273
Warm Springs Dam & Res.	Middle Fork Malheur River	Malheur, Or.	-	-	-	-	-	191.0	3406.0	3327.0	4600	90	50% Vale Irr Dist. & 50% Bureau of Rec.	-
Waterbury Dam & Reservoir	Little River	Washington, Vt.	27.7	617.5	592.0	1330	890	-	-	-	-	-	State of Vermont	PL 78-534
Weiss Dam & Reservoir	Coosa River	Cherokee, Al.	397.0	574	546	50000	30200	-	-	-	-	-	Alabama Power Co.	PL 83-436
Yellowtail Dam & Bighorn Lake	Bighorn River	Big Horn, Mt.	259.0	3657.0	3640.0	17298	12685	250.0	3640.0	3614.0	12685	7410	Bureau of Rec.	PL 78-534

(Sec. 7, Pub. L. 78-534, 58 Stat. 890 (33 U.S.C. 709); the Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)); sec. 9, Pub. L. 83-436, 68 Stat. 303.)

[FR Doc.77-28666 Filed 9-30-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 205]

[FRL 796-3]

BUSES

Noise Emission Standards for Transportation Equipment

Correction

In FR Doc. 77-26375 appearing at page 45776 in the issue for Monday, September 12, 1977, in the first column of page 45776, in the "Dates" paragraph, in the 5th line, the words, "90 days from date of publication" should read "December 12, 1977."

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 21264; FCC 77-659]

COMMON CARRIERS BETWEEN UNITED STATES MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/VIRGIN ISLANDS

Integration of Rates and Services for Provision of Communications

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order, Docket 21264.

SUMMARY: The Federal-State Joint Board has set a pleading schedule for comments and replies on the question of what separations formula should be applied for Puerto Rico and the Virgin Islands. The Joint Board also adopted procedures it would follow at this stage of its efforts.

DATES: Comments due on or before December 1, 1977, replies due on or before January 16, 1978. Notice of Intent to file and be filed on due October 25, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, 202-632-5550.

MEMORANDUM OPINION AND ORDER

Adopted: September 22, 1977.

Released: September 28, 1977.

In the matter of integration of rates and services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264.

1. By "Notice of Inquiry, Proposed Rule Making and Creation of Federal-State Joint Board," FCC 77-366, released June 7, 1977,[1] the Commission convened this Joint Board to prepare a recommended decision for its consideration for the purpose of establishing the separations procedure(s) applicable to Puerto Rico and the Virgin Islands. The Joint Board having convened is now in a position to establish the procedures under which it will operate and will establish the pleading schedule for the development of information leading to the preparation of a recommended decision.

2. This proceeding is a result of the Commission's rate integration policy which is designed to eliminate the distinctions in levels of charges and rate patterns between the mainland and Puerto Rico and the Virgin Islands. The Commission has stated that it anticipates that full implementation of rate integration will result in the affected carriers participating in the division of revenues in the interstate revenue pool on the same basis as mainland companies, e.g., the recovery of their costs associated with the provision of interstate service and a rate of return. "Reconsideration of Integration of Rates and Services", FCC 77-364, released June 6, 1977. To accomplish this goal the carriers must separate their interstate costs on the basis of a prescribed methodology. Since no such methodology exists for Puerto Rico and the Virgin Islands, this Joint Board was convened pursuant to Section 410(c) of the Communications Act of 1934, as amended.

3. The notice creating this Joint Board clearly pointed out the Commission's initial impression that the jurisdictional separations procedures applicable on the mainland should also pertain to the carriers providing message telephone service to Puerto Rico and the Virgin Islands. (FCC 77-366, para. 4). The Commission did, however, point out that some of the affected carriers and governments expressed concerns that the existing NARUC-FCC Manual, which incorporate the "Ozark Plan" may require modification. While the Joint Board does not presently have a record on which to draw any impressions at this time, it would appear that a notice and comment procedure would be the most appropriate method to develop an adequate record. Upon completion of such a process the Joint Board will be in a posture to determine what further proceedings, if any, would be appropriate. The base line for this notice and comment procedure shall be the existing NARUC-FCC Separations Manual. All interested persons are invited to file comments on the question as to whether the existing manual should be applied to the provision of service to Puerto Rico and the Virgin Islands in the same manner as it is applied on the mainland. Necessarily included within this question is what changes, if any, should be made to the existing manual.

4. The specific procedures applicable to this notice and comment process are those that apply to any other Commission rule making proceeding except as modified herein. A service list will be prepared. Parties who desire to file and and be filed on are requested to file with the Commission a notice of intent to file and be filed on October 25, 1977. The notice should contain the address to which service should be executed. Failure to file such a notice will not preclude any person from filing comments or replies, however, other parties who have filed such notice will not be required to file copies of their comments and replies on such persons. An original ond 6 copies of all documents filed shall be filed in the Commission's offices, and an additional copy shall be filed with each of the State Commissioners serving as participants on this Joint Board. The service list will contain addresses for each of these Commissioners.

5. Inquiries have been addressed to the Joint Board concerning how the routine matters that develop in rulemaking proceedings will be dealt with and whether ex parte rules apply to the Joint Board proceeding. This Joint Board was convened to prepare a recommended decision in a restricted rulemaking proceeding of the Commission. Since the Chief, Common Carrier Bureau is delegated broad authority in rulemaking proceedings before the Commission, we believe he is authorized to conduct the routine matters of this Joint Board including ruling on requests for extensions of time. In the event matters are raised requiring full Joint Board action, the Chief, Common Carrier Bureau is authorized to record the votes of the Joint Board members by means of telephone inquiry. As we previously noted, this proceeding is one phase of a restricted rulemaking. See § 1.1207 of the Commission's rules and regulations. Therefore the Commission's ex parte rules apply to this Joint Board proceeding. While the Commission's rules only identify decision-making Commission personnel, the State Commissioners appointed to the Joint Board fully participate in the decision making process. Therefore, they and their designated staffs are to be considered decision-making personnel fully subject to the provisions of the Commission's ex parte rules. To avoid the possibility of an inadvertent ex parte presentation being made to the staffs of the State Commission members of this Joint Board, the State Commissioners will designate and make part of the docket file maintained at the Commission, names of those staff personnel they will utilize to assist them in this Joint Board effort. All parties are strongly encouraged to review the rules, 47 CFR 1.1201-1.1251.

6. The pleading schedule we will adopt is designed to give all interested parties adequate time to prepare their comments and replies. The normal reply period has been extended since a 30 day period would require preparation of replies in the midst of a major holiday season. We must however emphasize our concern that this proceeding be concluded in a most expeditious manner, since the final phase of rate integration for Puerto Rico and the Virgin Islands is dependent on the development of cost related settlements. Such settlements cannot be developed

[1] See 42 FR 45937, September 13, 1977.

until the separations methodology is prescribed in this docket. In addition, we reemphasize that comments are to be limited to what changes, if any, should be made to the existing NARUC–FCC Separations Manual so as to make it applicable to Puerto Rico and the Virgin Islands. It is imperative that if changes are proposed, that the proposed modifications be supported in the record in such a manner that this Joint Board has a record on which to make its decision.

7. *Accordingly, it is ordered,* That a notice and comment procedure is instituted into the issues specified in paragraph 3 of this Memorandum Opinion and Order;

8. *It is further ordered,* That any interested party may file, on or before October 25, 1977, a notice of intention to participate. The Joint Board shall then issue a Public Notice stating the names of parties intending to participate herein. All comments, replies, and other submissions in this proceeding shall be served on all parties listed in the Public Notice;

9. *It is further ordered,* That any interested person partcipating in this proceeding shall file comments on or before December 1, 1977, and replies shall be filed on or before January 16, 1978;

10. *It is further ordered,* That all participants shall file an original and six copies of all comments, replies, or other submissions with the Secretary, Federal Communications Commission and one copy with each of the State Commission members at addresses specified by them. Copies of all filings in this proceeding shall be available for public inspection during regular business hours in the Commission's Reference Room at its headquarters at 1919 M Street NW., Washington, D.C.; and

11. *It is further ordered,* That the routine matters concerning this proceeding will be dealt with by the Chief, Common Carrier Bureau. The Chief, Common Carrier Bueau is authorized to solicit and record the votes of the Joint Board via telecommunications for matters requiring Joint Board action.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–28903 Filed 9–30–77;8:45 am]

[7035–01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1080]

[No. 36572]

CONTRACTS, FORWARDERS—MOTOR COMMON CARRIERS

Petition Seeking Institution of Rulemaking Proceeding

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking; Clarification.

SUMMARY. This is to make clear that the propsed rule, published in the FEDERAL REGISTER of September 22, 1977, volume 42, at page 47853, would apply only to motor common carriers and freight forwarders of household goods. The words "of household goods" should be inserted in the text of the proposed rule and in the supplementary information section of the notice after the words "freight forwarder(s)" wherever found.

EFFECTIVE DATE: September 27, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202–275–7693).

Accordingly, in the Supplementary Information section and in the proposed amendment to § 1080.2(c) published at 42 FR 47853, September 22, 1977, insert the words "of household goods" after the words "freight forwarder(s)" wherever they appear.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77–29012 Filed 9–30–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MEAT IMPORT LIMITATIONS

Fourth Quarterly Estimates

Pub. L. 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following fourth quarterly estimates for 1977 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year is 1,165.4 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1977 is less than 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1977 on the importation of fresh, chilled, frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Public Law 88-482 at this time.

This estimate is based upon information provided by the Department of State that agreements have been concluded with major supplying countries to limit meat imports into the United States in 1977. Were it not for these voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C. this 27th day of September, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-28982 Filed 9-30-77;8:45 am]

CIVIL AERONAUTICS BOARD

ASPEN AIRWAYS, INC., ET AL.

Order Instituting an Investigation

Correction

In FR Doc. 77-27464 appearing at page 47575 in the issue for Wednesday, September 21, 1977, in the bracketed material below the first paragraph of the third column of page 47575, "Order No. 77-52" should have read "Order No. 77-9-52".

[6320-01]

AIR CHARTER TOUR OPERATORS OF AMERICA

Cancellation of Meeting

Notice is hereby given that a briefing to be given by the Air Charter Tour Operators of America on September 30, 1977, at 10 a.m., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., has been cancelled and will be rescheduled at a later date.

Dated at Washington, D.C., September 28, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-28932 Filed 9-30-77;8:45 am]

[6320-01]

WICHITA CASE, ET AL.

Addition of Case for Oral Argument

Improved authority to Wichita case, Docket 28848; additional Dallas/Fort Worth-Kansas City nonstop service case, Docket 28778; Phoenix-Des Moines/Milwaukee route proceeding, Docket 28800; Sacramento-Denver Nonstop case, Docket 28961; Memphis-Twin Cities/Milwaukee case, Docket 29186; Greenville/Spartanburg - Washington/New York subpart M cast, Dockets 24778 and 28308.

The Board has decided to include the Greenville/Spartanburg - Washington/New York Subpart M Case, Dockets 24778 and 28308, with the other above-described cases on which oral argument on limited issues heretofore has been scheduled to be held on October 12, 1977 (42 F.R. 52452, September 30, 1977). The argument will be heard on the issues (a) with respect to the subsidy condition to be imposed on authority granted a local service carrier and (b) whether the authority should be permissive or not, which are being considered in the above-entitled cases. These issues are more fully described on page 3 of Order 77-8-146. The time and place of the oral argument before the Board are October 12, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as previously established.

The respective views of the local service carriers, the trunkline carriers, the civic parties, and any other groups of parties which may wish to appear shall be presented by a common spokesman for each group of interests. Each of these groups which wishes to participate in the oral argument shall provide the name of the person selected, in writing, to be received in this office on or before October 4, 1977.

Dated at Washington, D.C., September 27, 1977.

HENRY M. SWIKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-28931 Filed 9-30-77;8:45 am]

[6320-01]

[Order 77-9-85; Docket 30332; Agreement C.A.B. 26882]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Currency Matters

Issued under delegated authority September 21, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement was adopted at the Composite Cargo Traffic Conference held in Vancouver in May 1977.

The agreement would establish currency adjustment factors for application with cargo rates and minimum charges between points within TC2 (Europe/Middle East/Africa), and is intended to relate local currency selling rates more closely to fluctuating foreign exchange values. We will approve the agreement insofar as it affects rates which are combinable with rates to/from the

United States and thus has indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board's regulations, 14 CFR 385.14, it is not found that Resolution 275/022aa, incorporated in Agreement C.A.B. 26882, is adverse to the public interest or in violation of the Act.

Acordingly, *It is ordered*, That:

Agreement C.A.B. 26882 is approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29033 Filed 9-30-77;8:45 am]

[6320-01]

[Order 77-9-87; Docket 27573; Agreement C.A.B. 26869]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Specific Commodity Rates

Issued under delegated authority September 21, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement would extend specific commodity rates under an existing commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated July 28 ,1977.

Agreement	Specific commodity item No.	Description and rate
CAB 26869....	4326	Electronic data storage-processing machines, $1.99 per kilogram,[1] minimum weight 2,000 kg, from New York to Tokyo; $1.67 per kilogram,[1] minimum weight 2,000 kg, from Los Angeles to Tokyo.

[1] Expires Mar. 31, 1978.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act provided that approval is subject to the conditions ordered.

Accordingly, *it is ordered*, That:

Agreement C.A.B. 26869 be approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained there for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29034 Filed 9-30-77;8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

WISCONSIN ADVISORY COMMITTEE

Meeting Date Change

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Tuesday, September 27, 1977, (FR Doc. 77-28137) on page 49493 is hereby amended. The meeting will be held on October 18, 1977 instead of October 17, 1977. The time and place remains the same.

Dated at Washington, D.C., September 28, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-29037 Filed 9-30-77;8:45 am]

[6335-01]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 noon on October 25, 1977 at the Federal Building, 10th Floor, 600 Arch Street, Room 10320, Philadelphia, Pa. 19126.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within the state.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-29014 Filed 9-30-77;8:45 am]

[3510]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 9-77]

FOREIGN-TRADE ZONE—ORANGE COUNTY, NEW YORK

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Orange, N.Y., requesting authority to establish two general-purpose foreign-trade zone sites in Orange County, adjacent to the New York City Customs port of entry. Site No. 1 would be located in the Sage Building at Steuart Airport, a former military facility currently owned by the Metropolitan Transportation Authority, a New York State agency. Site No. 2, a 4.9-acre site located on State Route 207, approximately one mile from Stewart Airport, is to be within a proposed 65-acre industrial park. Both sites are within the Town of New Windsor. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 19, 1977. The County is authorized to make application under Chapter 585 of the New York Laws of 1975, effective August 1, 1975.

The proposal was developed under the aegis of the Foreign Trade Zone Management Board of Orange County, consisting of members of the State Legislature and community leaders. This body publicly invited proposals for the devel-

opment and operation of the two sites. A not-for-profit corporation known as the Foreign Trade Development Co., of Orange County, Inc. was selected.

Site No. 1 is a concrete, windowless building containing 84,970 square feet of industrial space on four floors. Site No. 2 will be developed according to the operator's needs and made available on a leasehold basis. Both sites have access to the New York Thruway and Interstate Route 84.

The application includes economic data and information concerning the need for zone services in the area. Several firms have indicated their intention to use the zone for storage, assembly and distribution. Among the products involved are milking machines, centrifugal devices, color control lamps, control systems, analytical instruments, cosmetics, and components for diesel electric generators.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C.; Francis O'Rourke, Deputy Assistant Area Director, New York Seaport, U.S. Customs Service, 435 East 14th Street, New York, N.Y. 10009; and Colonel Clark H. Benn, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, N.Y. 10007.

In connection with its investigation of the proposal, the examiners committee will hold a public hearing on October 27, 1977, beginning at 9:00 a.m., in Building 105 (Administration Building), Metropolitan Transportation Authority, Stewart Airport, Newburgh, N.Y. The purpose of the hearing is to help inform interested persons about the proposal, to provide them with an opportunity to express their views, and to obtain information useful to the committee.

Interested persons or their representatives will be given the opportunity to present their views at the hearing. Such persons should by October 21 notify the Board's Executive Secretary in writing at the address below of their desire to be heard. In lieu of an oral presentation, written statements may be submitted to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through November 25, 1977. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Customs Service, International Arrival Building, Stewart Airport, Newburgh, N.Y. 12550.

Office of the Executive Secretary, Foreign Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: September 27, 1977.

JOHN J. DA PONTE, JR.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.77-28939 Filed 9-30-77;8:45 am]

[3510-13]

National Bureau of Standards

COMMERCIAL STANDARD

Intent To Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Commercial Standard CS 243-62, "Stainless Steel Plumbing Fixtures (Designed for Residential Use)."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of CS 243-62 is adequately covered by the American National Standards Institute's standard ANSI A112.19.3, "Stainless Steel Plumbing Fixtures (Designed for Residential Use)."

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: September 27, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-28938 Filed 9-30-77;8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL AND GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

The South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council (both established by section 302 of the Fishery Conservation and Management Act of 1976, Pub. L. 94-265) will meet both jointly and separately, at the Hyatt Regency House, 6375 Space Coast Parkway, Kissemmee, Fla. The joint meeting starts at 1:30 p.m., November 15; and adjourns about noon, November 16, 1977.

Proposed agenda. Discussion of mutual matters of interest and concern to both Councils.

The South Atlantic Fishery Management Council, the Scientific and Statistical Committee and its Advisory Panel will meet in separate session November 16-17, 1977, in Kissemmee, Fla. Meeting starts at 1:30 p.m. on November 16 and adjourns about 5 p.m. on November 17.

Proposed agenda. Fishery management plans being developed.

The Gulf of Mexico Fishery Management Council will meet separately November 16-17, 1977, in Kissemmee, Fla. This meeting starts at 1:30 p.m. on November 16 and adjourns about 5 p.m. on November 17.

Proposed agenda. (1) Management plans; (2) personnel and administration matters; (3) review of foreign fishing applications, if any; (4) other fishery management business.

These three meetings are open to the public. For more information on seating, changes to the agenda, or written comments, contact either Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, S.C. 29407, telephone 803-571-4366; or Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 W. Kennedy Boulevard, Tampa, Fla. 33607, telephone 813-228-2815.

Dated: September 27, 1977.

WINFRED H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

[FR Doc.77-28915 Filed 9-30-77;8:45 am]

[3510-17]

Office of the Secretary

ADVISORY PANEL FOR THE WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V., 1975)) and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Department of Commerce has determined that the establishment of the Advisory Panel for the Western Pacific Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1852).

The Panel will provide the parent Council with pragmatic advice in counsel of the people most affected by the Council's management activities on matters of fishery management policy, on the

preparation of fishery management plans, on their views prior to submission to the Secretary, and on their effectiveness in operation.

The Panel will consist of approximately 50 members who are either actually engaged in the harvest, process, or consumption of, or who are knowledgeable and interested in the conservation and management of fishery resources. Members of the Panel will be appointed by the Council.

The Panel will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Panel's Charter will be filed under the Act with the concerned Congressional committees. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.

Dated: September 26, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[F.R. Doc.77-28941 Filed 9-30-77;8:45 am]

[3510-17]

ADVISORY COMMITTEE TO THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)) and Office of Management and Budget Circular A-63 of March 1974, the Advisory Committee to the White House Conference on Balanced National Growth and Economic Development is established as directed by section 204 of the Public Works and Development Act of 1976, Pub. L. 94-487, and in accord with the President's delegation of authority to the Secretary of Commerce.

The Committee will advise the Secretary of Commerce, through the Director of the White House Conference on Balanced National Growth and Economic Development, on the planning of the Conference and the preparation of the interim and final reports of the Conference.

The Committee will consist of 15 or more members appointed by the President, of whom not less than five shall represent business in the private sector, and also includes representatives of State and local government, labor, institutions, and consumer, environmental and other interests. In addition, the Secretaries of Agriculture, Commerce, and Housing and Urban Development, and other relevant Federal program managers designated by the President shall be members.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act concurrent with the publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee. Those comments, as well as any inquiries, may be addressed to Mr. Clark Tyler, Deputy Director, White House Conference on Balanced National Growth and Economic Development, 2001 S Street NW., Washington, D.C. 20009.

Dated: September 26, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-28940 Filed 9-30-77;8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXTENDING THE COTTON, WOOL AND MAN-MADE FIBER TEXTILE AGREEMENT WITH THE REPUBLIC OF KOREA

SEPTEMBER 28, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Extending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea.

SUMMARY: Notes have been exchanged between the Governments of the United States and the Republic of Korea extending the third year of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, for three-months, through December 31, 1977. Accordingly, the specific levels of restraint previously established for the twelve-month period which began on October 1, 1976, for cotton, wool and made-made fiber textile products, produced or manufactured in the Republic of Korea, are being increased to reflect the extended agreement period.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textile, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-5423).

SUPPLEMENTARY INFORMATION: On October 1, 1976, there was published in the FEDERAL REGISTER (41 FR 43440) a letter dated September 29, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established the levels of restraint applicable to certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977. A correction in certain of the levels of restraint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765).

In the letter of September 28, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit entry into the United States for consumption or withdrawal from warehouse for consumption of the designated categories of cotton, wool and man-made fiber textile products to the indicated 15-month levels of restraint.

ROBERT E. SHEPHARD,
Chairman, Committee for the Implementation of Textile Agreeemnts, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,

September 28, 1977.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Paragraph 1 of the directive of September 29, 1976 is further amended, effective on October 1, 1977, to read as follows:

"Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on October 1, 1977 and for the fifteen-month period extending from October 1, 1976 through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9/10, 18/19/26 (printcloth), 22/23, 26 (duck), 39, 42/43 and part of 62, 45/46/47, 48, 49, 50/51, 52, part of 62, and 63; wool textile products in Categories 104, 116/117, 120, 121, and 124; and man-made fiber textile products in Categories 208, 210, 218, 219, 221, 222, 224, 228, 229, 234 210, 218, 219, 221, 222, 224, 228, 229, 234, 235, 237, and 238 in excess of the following levels of restraint:

Category	Fifteen-Month Level of Restraint [1]
9/10	8,332,869 square yards
18/19/26 (printcloth) [2]	6,662,884 square yards
22/23	4,566,225 square yards
26 (duck) [3]	27,799,546 square yards
39	389,859 dozen pairs
42/43 and part of 62 [4]	4,000,004 square yards equivalent
45/46/47	4,011,381 square yards equivalent
48	28,445 dozen
49	64,669 dozen
50/51	244,275 dozen (of which not more than 129,474 dozen shall be in Category 50 and not more than 175,229 dozen shall be in Category 51)
52	89,602 dozen
pt. 62 [5]	244,555 pounds
pt. 63 (T.S.U.S.A. Nos. 380.3980 and 382.3980)	1,328,696 pounds
pt. 63 [6]	1,328,696 pounds
104	2,750,000 square yards
116/117	589,696 pounds
120	400,569 numbers
121	242,885 numbers
124	1,225,025 numbers
208	22,000,000 square yards (of which not more than 10 million square yards shall be in T.S.U.S.A. Nos. 338.3037 and 338.3038)
210	2,187,500 square yards
218	1,122,223 dozen
219	5,153,570 dozen
221	3,556,379 dozen
222	1,228,074 dozen
pt. 224 (only T.S.U.S.A. Nos. 380.0420 and 380.8143)	51,669 dozen
pt. 224 (only T.S.U.S.A. Nos. 380.0402 and 380.8103)	69,696 dozen
pt. 224 [7]	5,448,718 pounds
228	1,116,772 dozen
229	253,256 dozen
234	4,854,869 dozen
235	1,700,356 dozen
237	194,444 numbers
238	270,195 dozen

[1] The levels of restraint have not been adjusted to reflect any imports after September 30, 1976.
[2] In Category 26 the T.S.U.S.A. numbers for printcloth are:
320.--34 326.--34
321.--34 327.--34
322.--34 328.--34
[3] In Category 26, the T.S.U.S.A. numbers for duck fabric are:
320.--01, through 04, 06, 08 326.--01 through 04, 06, 08
321.--01, through 04, 06, 08 327.--01 through 04, 06, 08
322.--01, through 04, 06, 08 328.--01 through 04, 06, 08
[4] In Category 62, only T.S.U.S.A. numbers:
380.0027 382.0610
382.0002 382.3904
382.0026 382.6904
382.0605
[5] In Category 62, all T.S.U.S.A. numbers not listed in footnote 4.
[6] In Category 63, all T.S.U.S.A. numbers except T.S.U.S.A. 380.3980 and 382.3980.
[7] In Category 224, all T.S.U.S.A. numbers except T.S.U.S.A. 380.0402, 380.0420, 380.8103 and 380.8143.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and mand-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C 553.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-29038 Filed 9-30-77;8:45 am]

[3510-25]

EXTENDING THE BILATERAL COTTON TEXTILE AGREEMENT WITH INDIA

SEPTEMBER 29, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Extending the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India.

SUMMARY: Notes have been exchanged between the Governments of the United States and India extending the Cotton Textile Agreement of August 6, 1974, as amended, for one month, through October 31, 1977. Accordingly, the specific levels of restraint previously established for cotton textiles and cotton textile products under the terms of this agreement are being increased to reflect the extension.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On September 30, 1976, there was published in the FEDERAL REGISTER (41 FR 43235) a letter dated September 29, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements, which established the levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products, produced or manufactured in India and exported to the United States during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977. In the letter of September 29, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit entry into the United

States for consumption and withdrawal from warehouse for consumption of the indicated categories and groups of categories, produced or manufactured in India, to the designated thirteen month-levels of restraint.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 29, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton textiles and cotton textile products, produced or manufactured in India.

Paragraph 1 of the directive of September 29, 1976 is amended, effective on October 1, 1977, to read as follows:

"Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on October 1, 1977, and for the thirteen month period beginning on October 1, 1976 and extending through October 31, 1977, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64 in excess of the levels of restraint listed below. These goods shall be accompanied by an export visa.

Category	*Thirteen Month Level of Restraint* [1]
1-38 and 64	140,917,720 square yards equivalent
9-10	50,700,936 square yards
18/19	10,673,882 square yards
26 (other than duck)[2]	46,698,231 square yards
28-38 and 64	11,153,727 square yards equivalent
28/29	8,615,911 units
31	34,007,661 units of which not more than 20,404,595 units shall be in T.S.U.S.A. 366.1820, 366.1855, 366.1865, 366.2120, 366.2160, 366.2120, and 366.2460
34/35	1,721,524 units
39-03	20,118,806 square yards equivalent"

[1] The levels of restraint have not been adjusted to reflect any imports after September 30, 1976.
[2] In Category 26 the T.S.U.S.A. numbers for duck fabric are:
320.—01 through 04, 06, 08 326.—01 through 04, 06, 08
321.—01 through 04, 06, 08 327.—01 through 04, 06, 08
322.—01 through 04, 06, 08 328.—01 through 04, 06, 08

Paragraph 2 of the directive of September 29, 1976, is amended by substituting October 31, 1977, for September 30, 1977.

The actions taken with respect to the Government of India and with respect to imports of cotton textiles and cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.77-29175 Filed 9-30-77;9:46 am]

[6330-01]

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will meet in open session to discuss various projects affecting the appearance of Washington, D.C. on Tuesday, October 25, 1977, at 10 a.m. in the Commission offices at 708 Jackson Place, NW., Washington, D.C. 20006.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice of January 11, 1977, published at 42 FR 2337.

Dated in Washington, D.C., September 27, 1977.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.77-28984 Filed 9-30-77;8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C³)

Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (Counter-C³) will meet in closed session on 15 October 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the communications, command and control (C³) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

SEPTEMBER 28, 1977.

[FR Doc.77-28056 Filed 9-30-77;8:45 am]

[3810-70]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

NAME OF COMMITTEE: Subcommittee on Health Maintenance Systems of the Armed Forces Epidemiological Board.

DATE OF MEETING: October 20-21, 1977.

PLACE: Officers' Club Conference Room, School of Aerospace Medicine, Brooks Air Force Base, San Antonio, Tex.

TIME: 0830-1630, October 20, 1977; 0830-1300, October 21, 1977.

PROPOSED AGENDA: The proposed agenda will include a briefing on the U.S. Air Force School of Aerospace Medicine, a briefing on the USAF Health Maintenance Program "HEART", briefings on the hearing conservation program of the three military departments, a discussion of the "Women in the Army Study", a briefing on the development of physical fitness tests for various military occupations, a discussion of data on physical capabilities and limitations of women in the Armed Forces and Committee discussions for the development of recommendations.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: September 22, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-29003 Filed 9-30-77;8:45 am]

[3810-70]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463) announcement is made of the following committee meeting:

NAME OF COMMITTEE: Armed Forces Epidemiological Board ad hoc subcommittee on detection of wartime chemical contamination in the field water supplies.

DATE OF MEETING: October 26, 1977.

PLACE: Room 5E069 Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

TIME: 0900-1600.

PROPOSED AGENDA: The proposed agenda will include the discussion of problems related to detection of chemical contaminants in field water supplies in the combat environment and means available or under development to remove them.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: September 22, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-29004 Filed 9-30-77;8:45 am]

[6170-01]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SOLAR WORKING GROUP

Determination To Establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of a Solar Working Group as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management Secretariat of OMB concurs in the simultaneous publication of this Notice and the filing of the Charter.

Name of Advisory Committee: Solar Working Group.

Purpose: The Committee's objectives and scope of activities and duties are to provide guidance and evaluation by making an assessment of ERDA's solar programs.

Effective date of establishment and duration: The advisory committee is established effective October 1, 1977. The advisory committee's termination date wil be with the submission of its report but not later than April 1, 1978.

Membership: The membership of the advisory committee shall be balanced fairly in terms of the points of view represented and the functions to be performed by the advisory committee. Approximately 12 members from the fields of science, academia, utilities, and other sectors of the general public will serve on the committee. There will be no discrimination based on race, color, creed, national origin, religion, or sex.

Operation: The Solar Working Group will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), ERDA policy and procedures (10 CFR Part 707), OMB Circular A-63 (Revised), and other directives and instructions issued in accordance with the implementation of the Act. The Solar Working Group will meet approximately five times. An agenda for each meeting will be developed. The staff of the former General Advisory Committee (GAC) will provide on a continuous basis all information on solar energy programs, issues, and policies reasonably required by the committee to perform its functions. Staff support will be provided to the committee by the staff of the GAC.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

SEPTEMBER 29, 1977.

[FR Doc.77-29132 Filed 9-30-77;8:45 am]

[6170-01]

COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM

Availability of Draft Environmental Impact Statement

Notice is hereby given that a Draft Environmental Impact Statement, ERDA 1557-D, Coal Research, Development and Demonstration Program (September 1977) was issued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of ERDA's Coal Research, Development and Demonstration Program, and assesses the potential impacts of the development of a commercial coal conversion and combustion industry resulting from this program. The statement also assesses the impacts associated with conjunctive developments such as mining and transportation of the coal need to support the industry. In addition, the socioeconomic impacts associated with community development and/or expansion caused by the industry are assessed. The statement also assesses alternatives to the program.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal agencies, Clearinghouses of all fifty States, public and other organizations and individuals that may have an interest in this program.

Copies of the statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue; Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway; Oakland, Calif.
Savannah River Operations Office, Savannah River Plant; Aiken, S.C.

In addition, a copy will be placed in the:

Regional Energy/Environmeintal Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Comments and views concerning the draft environmental impact statement are requested from other interested agencies, organizations and individuals. Single copies of the statement will be furnishd for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, Energy Research and Development Administration, Washington, D.C. 20545 (301-353-4241). Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Emphasis should be placed specifically on the assessment of the environmental impacts of the proposed project, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final environmental impact statement, if received within 90 days of this notice.

Dated at Germantown, Md., this 29th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator, for Environment and Safety.

[FR Doc.77-29200 Filed 9-30-77;11:34 am]

[6170-01]

LONG-TERM MANAGEMENT OF DEFENSE HIGH-LEVEL RADIOACTIVE WASTES (IDAHO CHEMICAL PROCESSING PLANT, IDAHO NATIONAL ENGINEERING LABORATORY, IDAHO FALLS, IDAHO)

Preparation of Environmental Impact Statement and Availability of Technical Alternatives Defense Waste Document

Notice is hereby given that in accordance with the National Environmental Policy Act, the Energy Research and Development Administration (ERDA) intends to prepare a programmatic environmental impact statement (EIS) concerning the long-term management of the high-level radioactive wastes that are generated as part of the national defense effort at the Idaho Chemical Processing Plant (ICPP) located near Idaho Falls, Idaho. Currently, these radioactive wastes are stored at the Idaho site.

The environmental impacts of the continuing waste management operations at the plant were assessed in ERDA-1536, a draft environmental impact statement issued in June 1976 (41 FR 27778, July 6, 1976). This new programmatic statement will assess the environmental impacts associated with the reasonably available alternatives for ultimate disposition of the wastes in an environmentally acceptable manner for periods of time required for the radioactivity to decay to safe levels, i.e., hundreds to thousands of years. Research and development programs are being performed at the Idaho Chemical Processing Plant on alternative modes for the long-term management of these defense wastes.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. In order to provide background regarding the state-of-the-art of various technologies to be considered for use in disposal of the wastes, ERDA has prepared a Defense Waste Document (DWD), "Alternatives for Long-Term Management of Defense High-Level Waste" (ERDA-77-43). The preparation of this DWD was announced October 18, 1976, (41 FR 45901). This DWD describes the alternative technologies with respect to their probable relative costs, risks, and uncertainties. Three basic alternatives and several variations are included in the DWD. These alternatives range from continuing the storage of high-level waste as a granular solid (calcine) in stainless steel bins within concrete vaults at the ICPP (which is the "no action" alternative), to conversion of the waste to a glass form and shipment to an offsite Federal repository.

The EIS will assess the environmental impact of the main candidate plans using the DWD as a reference source of technology input. The EIS will provide environmental input into decisions related to the research, development, demonstration activities and engineering design studies required to establish an environmentally acceptable mode of disposal for these high-level radioactive wastes.

Interested agencies, organizations or persons desiring to submit comments or suggestions on the DWD or the scope or content of the EIS should submit them to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, U.S. Energy Research and Development Administration, Washington, D.C. 20545, telephone 301-353-4241, on or before November 1, 1977. These comments will be considered in the preparation of the draft EIS. Those desiring a copy of the DWD for use in preparing comments or suggestions, or a copy of the draft EIS when it is issued, should notify Mr. Pennington.

Copies of the DWD, the Idaho waste management EIS (ERDA-1536), and other documentation to be used in the preparation of the new EIS are available for public inspection at the public document room located at the Idaho Operations Office at Idaho Falls. Copies of ERDA-1536; the Savannah River DWD, ERDA 77-42; the ID DWD, ERDA 77-43 are available for public inspection at ERDA's public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C. 20545.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, N. Mex. 87115.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill. 60439.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn. 37830.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev. 89114.
Richland Operations Office, Federal Building, Richland, Wash. 99352.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif. 94612.
Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29801.

Dated at Germantown, Md., this 27th day of September 1977, for the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-29197 Filed 9-30-77;11:34 am]

[6170-01]

[ERDA-1551]

NEVADA TEST SITE, NYE COUNTY, NEV.

Availability of Final Environmental Impact Statement

Notice is hereby given that a Final Environmental Impact Statement, ERDA-1551, Nevada Test Site, Nye County, Nev. (September 1977), was issued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared to assess the environmental impact of continuing ERDA's underground nuclear testing program and other activities at the Nevada Test Site for Fiscal Year 1978 and beyond.

The cumulative impact on the environment from underground nuclear detonations with yields of one megaton or less and the preparation necessary for such detonations are assessed. The statement also assesses the testing activities of other continuing and intermittent activities, both nuclear and nonnuclear, which can best be conducted in the remote and controlled area of the NTS.

No significant adverse effects on the NTS or surrounding environment are anticipated to result from the continuation of existing programs or initiation of the proposed programs.

Copies of the final environmental impact statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

In addition, a copy will be placed in the:

Regional Energy/Environmental Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration on January 18, 1977. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830 (615-483-8611), extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 29th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-29199 Filed 9-30-77;11:34 am]

[6170-01]

[ERDA-1549]

PORTSMOUTH GASEOUS DIFFUSION PLANT EXPANSION PIKE COUNTY, PIKETON, OHIO

Availability of Final Environmental Statement

Notice is hereby given that a Final Environmental Statement, ERDA-1549, Portsmouth Gaseous Diffusion Plant Expansion, Pike County, Piketon, Ohio (September 1977), was issued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. At the time the draft statement was issued, it was thought that the demand for additional enrichment capacity required that it be available by 1985. The gaseous diffusion process was the only technology thought to be able to provide the needed additional enrichment capacity in that time frame. Therefore, the draft environmental statement focused on the environmental effects of expanding the capacity at Portsmouth via this process. Upon further review, it was determined that the expansion of uranium enrichment capacity could be delayed from 1 to 2 years permitting the gas centrifuge process to be developed as a reasonable alternative in the new time frame. The President subsequently announced in his April 1977 energy message that the gas centrifuge process will be used in place of the gaseous diffusion process in the next addition to uranium enrichment capacity. Accordingly, Section 5.1.3 on a gas centrifuge plant at Portsmouth has been expanded in the final statement.

Copies of the final environmental impact statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base—East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration on October 15, 1976. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830 (615-483-8611), extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 29th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-29198 Filed 9-30-77;8:45 am]

[6506-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 777-6]

AIR POLLUTION PREVENTION AND CONTROL

Addition to the List of Categories of Stationary Sources

Section 111 of the Clean Air Act (42 U.S.C. 1857c-6) directs the Administrator of the Environmental Protection Agency to publish, and from time to time revise, a list of categories of stationary sources which he determines may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Within 120 days after the inclusion of a category of stationary sources in such list, the Administrator is required to propose regulations establishing standards of performance for new and modified sources within such category. At present standards of performance for 24 categories of sources have been promulgated.

The Administrator, after evaluating available information, has determined that stationary gas turbines are an additional category of stationary sources which meets the above requirements. The basis for this determination is discussed in the preamble to the proposed regulation that is published elsewhere in this issue of the FEDERAL REGISTER (see FR Doc. 77-28721). Evaluation of other stationary source categories is in progress, and the list will be revised from time to time as the Administrator deems appropriate. Accordingly, notice is given that the Administrator, pursuant to section 111(b)(1)(A) of the Act, and after consultation with appropriate advisory committees, experts and Federal departments and agencies in accordance with section 117(f) of the Act, effective October 3, 1977, amends the list of categories of stationary sources to read as follows:

LIST OF CATEGORIES OF STATIONARY SOURCES AND CORRESPONDING AFFECTED FACILITIES

* * * * *

SOURCE CATEGORY

30. STATIONARY GAS TURBINES

* * * * *

AFFECTED FACILITIES
GAS TURBINES

Proposed standards of performance applicable to the above source category appear elsewhere in this issue of the FEDERAL REGISTER.

Dated: September 21, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-23727 Filed 9-30-77;8:45 am]

[6560-01]

[OPP-42050; FRL 800-4]

ILLINOIS

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and 40 CFR 171, the Honorable James R. Thompson, Governor of the State of Illinois, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Contingent approval is being requested pending the Governor's signature to the Illinois Structural Pest Control Act, and promulgation of implementing regulations. Copies of pertinent laws, regulations, proposed legislative amendments and regulations, and other related documents are attached to the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region V, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together with all attachments (except written examinations), may be examined during normal business hours at the following locations:

1. Emmerson Building, State Fairgrounds, Springfield, Ill., 62706 (Illinois Department of Agriculture, Division of Agricultural Industry Regulation), telephone 217-782-3817.
2. Room 1147, 230 South Dearborn Street, Chicago, Ill. 60604 (Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V), telephone 312-353-2192.
3. Room 401, East Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA), telephone 202-755-4854.

SUMMARY OF STATE PLAN

The Illinois Department of Agriculture (IDA) has been designated as the

State lead agency for the administration of the pesticide applicator certification program including enforcement activities. The Division of Agricultural Industry Regulation, IDA, will be responsible for the implementation and maintenance of state plan provisions, except for certification and enforcement activities relating to pesticide applicators in Industrial, Institutional, Structural, and Health Related Pest Control (category 7). Other responsibilities of IDA include State registration of all EPA registered pesticides sold in Illinois and coordination of field, laboratory, and office activities relating to pesticide regulation under State laws administered by IDA.

Cooperating agencies include the Illinois Department of Public Health (IDPH) and the University of Illinois Cooerative Extension Service (ICES).

The IDPH will be responsible for certifying commercial applicators engaged in Industrial, Institutional, Structural, and Health Related Pest Control (Category 7), under authority found in the Illinois Structural Pest Control Act of 1975. Preparation and administration of training programs and written examinations in Category 7 will be the responsibility of IDPH. Other responsibilities of IDPH include enforcement activities relating to structural pest control and cooperation with IDA in providing training for persons seeking IDA certification in mosquito pest control.

The ICES will have the lead role, pursuant to an Intrastate Service Agreement with the IDA, for the state-wide pesticide applicator certification training program, excluding training in Category 7 and mosquito control.

This responsibility includes preparation and administration of training courses, preparation of training materials, and distribution of training manuals.

In order to assure program coordination and uniformity in applicator training, certification, and restricted use pesticide enforcement, the lead agency will coordinate and direct activities with the various cooperating agencies. This will be carried out directly through cooperative agreements, the State Pesticide Planning Committee, and the Interagency Committee on Pesticide Use.

Legal authority for the certification program is contained in The Illinois Custom or Public Application of Pesticides Act (Il. Rev. St., Chapter 5, Paragraph 87(d) (1) et seq.); Pesticides Control Law (Il. Rev. St., Chapter 5, Paragraph 256 et seq.) and regulations; The Structural Pest Control Act (Il. Rev. St., Chapter 111½, Paragraph 2201 et seq.); and proposed regulations attached to the plan.

The plan indicates that the State lead agency and cooperating agencies have sufficient qualified personnel and funds necessary to conduct the programs described in the State Plan. Certain EPA funds have been provided to the lead agency to support the certification program. An EPA grant of $212,019 has been awarded to the IDA for this purpose. Additionally, the University of Illinois Cooperative Extension Service has received from EPA pesticide applicator training monies during FY 1976 and FY 1977.

An estimated 22,000 commercial applicators and 80,000 private applicators will require certification. Wallet size credentials will be issued to pesticide applicators upon successful completion of certification requirements. All credentials will contain name, address and classification of the applicator. For commercial applicators, the credential will also identify the category(ies) or subcategory(ies) of pest control in which the applicator is certified. Credentials issued private applicators unable to read will restrict purchase and use to specific pesticide products for which the applicator has demonstrated competency.

The State lead agency will submit an annual report to EPA not later than March 31 of each year to include the information specified in 40 CFR 171.7. The IDPH will submit specific information on Category 7 certification and enforcement activities to the IDA for inclusion in the annual report.

The IDA plans to continue the commercial applicator categorization scheme previously established under the State applicator licensing program. Categories described in the State Plan are those found in 40 CFR 171.3(b), except for the Category "Public Health Pest Control", which is identified as a subcategory under the State Category "Industrial, Institutional, Structural and Health Related Pest Control", 7(g). Two new categories are proposed: Mosquito control and Grain Facility Pest Control. Subcategories of commercial applicators proposed in the State Plan are as follows:

1. Agricultural Pest Control: (a) Plant:
(1) Field Crop Pest Control.
(2) Vegetable Crop Pest Control.
(3) Fruit Crop Pest Control.
7. Industrial, Institutional, Structural, and Health Related Pest Control.
(a) Insects, Rodents, and Other Pests Including Those Pests in Food Manufacturing, Food Processing, Food Storage and Grain Handling.
(b) Termites and Other Wood Destroying Organisms.
(c) Bird Control.
(d) Fumigation.
(e) Food Manufacturing, Food Processing and Food Storage Facilities.
(f) Institution and Multi-Unit Residential Housing Pest Control.
(g) Public Health Pest Control.

Standards of competency utilized for commercial applicators conform to 40 CFR 171.4 and 171.6. All commercial applicators will be determined competent based upon passage of a written, closed book examination.

The State Plan identifies and describes four classes of commercial applicators Illinois intends to utilize for certification and licensing purposes. They are (a) Commercial Pesticide Applicator For Hire, (b) Public Pesticide Applicator, (c) Commercial Pesticide Applicator Not For Hire, and (d) Certified Pest Control Technician. The Commercial Pesticide Applicator For Hire classification covers all pest control categories except Category 7, Industrial, Institutional, Structural, and Health Related Pest Control. The State defines such persons as those who own or operate a custom application business and in so doing, purchase and use or supervise the use of pesticides on the property of another person for hire. Public Pesticide Applicators are employees of a state agency, municipality or other governmental agency who use or supervise the use of restricted use pesticides in any pest control category other than Category 7. The Commercial Pesticide Applicator Not For Hire classification includes commercial applicators who use or supervise the use of restricted use pesticides on their own property or property of their employer but are not Public Pesticide Applicators. Commercial Pesticide Applicators Not For Hire encompass all areas of pest control except Category 7. The Certified Pest Control Technician is a commercial applicator with respect to the amended FIFRA and is engaged in Category 7 pest control activities identified in the State Plan. Certification of this class of commercial applicator is the responsibility of the IDPH. For purposes of this notice, and unless otherwise noted, the term "commercial applicator" shall mean and include the above four State defined classes of applicator.

All Certified Pest Control Technicians will be required to either participate in an IDPH approved training course or take a written examination at least once every 3 years to ensure that they continue to meet requirements of changing technology and maintain a continuing level of competency and ability to use pesticides safely and properly. All other commercial applicators will be required to renew their certification at 5 year intervals by taking and passing the appropriate written examination(s).

In accordance with 40 CFR 171.7(c)(3), the State of Illinois has requested that commercial applicators who have been previously licensed by passing written examinations in the following pest control categories and subcategories be certified without further examination:

Field Crop Pest Control (1972–present).
Ornamental and Turf Pest Control (1972–present).
Right-of-Way Pest Control (1972–present).
Aquatic Pest Control (1972–present).
Mosquito Pest Control (1972–present).
Industrial, Institutional, and Structural Pest Control (1975–1977).

The Agency has determined that persons who passed written examinations in these categories and subcategories within the time frame identified above, will have satisfied the requirements for certification, 40 CFR 171.1–171.6, and may be certified without additional examination.

The standards of competency for private applicators are the same as those listed in 40 CFR 171.5 and 171.6. Private applicator certification will be accomplished by one of the following procedures: (1) Successful completion of a training session conducted by the ICES, (2) passage of a written examination,

or (3) special training/oral interview for private applicators unable to read.

1. Successful completion of an ICES training session. An applicant may participate in a training program conducted by County Extension Advisers throughout Illinois. The Illinois Pesticide Applicator Study Guide, and supportive reference material on current pest control methods for specific use situations, will be utilized. During the training session, a representative of the IDA will be present to discuss applicable pesticide laws and regulations, and provide information concerning supervisory requirements of private applicators. Completion of training will be determined on the basis of successful completion of a pre-training and post-training evaluation form administered by an IDA representative. Additionally, each applicant will complete an application for certification, attached to the evaluation form, which assures the IDA that pesticides will be used in a competent, safe manner, in accordance with existing laws and regulations. Evaluation forms and applications for certification will be processed by the IDA.

2. Passage of a written examination. An applicant may take a written examination covering the competency standards listed in 40 CFR 171.5 and 171.6. These examinations will consist of 100 multiple choice questions and will be offered on a walk-in basis at local county adviser offices and local IDA offices. The examination may be completed at the applicant's residence as well; however, in this situation, the applicant will be required to attest that the examination was completed without unauthorized assistance. All examinations will be returned to the lead agency in Springfield for grading. A minimum passing grade of 70 percent is required before a private applicator certification is issued.

3. Nonreader certification. For private applicators unable to read, the lead agency intends to establish a certification system which allows competent applicators to use specific pesticide products. An applicator who can not read may attend the same training courses available to other applicators. However, the nonreader will be tested orally on the training course material and specific pesticide product labels by an IDA representative. Certification will be limited to those products in which the nonreader has demonstrated competency and the credentials will identify those products covered by the applicator's certification.

To renew a certificate, all private applicators will be required to complete one of the origial certification procedures described above at five year intervals.

Examinations for new categories and subcategories of commercial applicators, the private applicator examination, and existing commercial applicator licensing examinations are attached to the plan. In view of the need to preserve confidentiality of the examinations, they have been removed from the public inspection copies of the plan.

The Illinois State Plan indicates that within sixty (60) days of the approval of the Government Agency Plan (GAP) by EPA, Illinois will submit a statement in accordance with 40 CFR 171.7(e)(4)(i). Illinois has no Indian Governing Body subject to jurisdiction of the United States.

The IDA and IDPH have authority to consider reciprocity with other states and copies of such agreements will be furnished EPA. No recognized formal agreement on reciprocity with other states involving pesticide applicator certification is indicated in the plan.

Other regulatory authorities useful to implementation of the plan include further restriction or limitation on pesticide uses, requirement that pesticide dealers keep and maintain sales records of restricted use pesticides for a period of two years, licensing of commercial and public operators (persons working under the direct supervision of commercial applicators and public applicators, respectively), monitoring, inspection, and sampling activities.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Illinois to the Regional Administrator, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. The comments must be received within 30 days of date of publication of this notice, and should bear the identifying notation (OPP-42050). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: September 20, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator,
Region V.

[FR Doc.77-28919 Filed 9-30-77;8:45 am]

[6560-01]

[FRL 800-1]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Open Meeting

Under Section 10(a)(2) of Public Law 92-423, "The Federal Advisory Committee Act", notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Public Law 93-523, the "Safe Drinking Water Act", will be held at 9 a.m. on October 20, 1977, and at 8:30 a.m., October 21, 1977, in Conference Room 2117, Mall Area, Waterside Mall, 401 M Street, SW., Washington D.C. 20460.

The purpose of this meeting will be to discuss the health aspects of constituents found in drinking water, the rationale for standard setting, EPA's programs for protecting underground drinking water sources and plans for regulating underground injection practices.

Both days of the meeting will be open to the public. The Council encourages the hearing of outside statements and allocates a portion of time for public participation. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement and the petitioner's telephone number.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at Council meetings.

Any members of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Water Supply (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington D.C. 20460.

The telephone number is: Area Code 202-426-8877.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

SEPTEMBER 26, 1977.

[FR Doc. 77-28323 Filed 9-30-77;8:45 am]

[6560-01]

[FRL 793-3]

ENVIRONMENTAL HEALTH ADVISORY COMMITTEE; SCIENCE ADVISORY BOARD

Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held at 9 a.m. on October 19, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

The purpose of the meeting will be (1) to consider a draft document entitled, "Criteria for Evaluating the Mutagenicity of Chemicals", dated September 9, 1977, prepared by EPA's Office of Pesticide Programs, which discusses Agency approaches to the evaluation of test data relating to mutagenicity in the context of section 3, Registration of Pesticides, of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended; (2) to consider a report entitled, "Critique of the Biological and Climate Effects Research (BACER)—Effects of Stratospheric Modification", prepared by an Ad Hoc Study Group of the Science Advisory Board's Ecology Committee and the Environmental Health Advisory Committee, which evaluates certain aspects of a Federal interagency research program on the biological and climatic effects of stratospheric ozone reduction; and (3) to hear and discuss a report of the Committee's Study Group on Pentachlorophenol Contaminants which, i.e. is examining the potential hazard to humans attributable to registered uses of pentachlorophenol. The Agenda will also include (4) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. October 13, 1977. Please call Ms. Barbara Robinson on (703) 557-7720.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

SEPTEMBER 26, 1977.

[FR Doc.77-28924 Filed 9-30-77;8:45 am]

[6560-01]

[FRL 800-3; OPP-30019]

PESTICIDE PROGRAMS

Withdrawal of Denial of Application to Register Pesticide Product Containing Heptachlor

On November 26, 1974, notice of intent to cancel certain uses of heptachlor and chlordane was published in the FEDERAL REGISTER (39 FR 41298) in accordance with section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.). On April 14, 1977, the Environmental Protection Agency (EPA) denied an application received from the Florida Department of Agriculture and Consumer Services to register the pesticide product HEPTACHLOR 5-G (EPA) File Symbol 40185-R) for use in controlling the West Indian sugarcane rootstalk borer weevil larvae, *Diagrepes abbreviatus*. The notice of denial was published April 22, 1977 (42 FR 20850).

This notice of denial was withdrawn by a letter dated May 13, 1977, to the applicant, because the stated basis for issuing that notice was in error; the use of heptachlor for which the application was made was not subject to the provisions of the November 26 FEDERAL REGISTER notice.

The applicant has been advised that certain additional hazard data which were omitted from the application can be submitted, and thereafter the application will be processed and reviewed in accordance with the criteria for determinations of unreasonable adverse effects specified in 40 CFR 162.11 of the EPA registration regulations.

Dated September 27, 1977.

JAMES M. CONLON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-28920 Filed 9-30-77;8:45 am]

[6560-01]

[FRL 800-2; OPP-210010]

PESTICIDE PROGRAMS

Public Hearings on Toxicology Data Auditing Program

The Office of Pesticide Programs (OPP), Environmental Protection Agency (EPA), has initiated a Toxicology Data Auditing Program (TDAP), which provides for audits of laboratory records and raw data associated with studies and test reports submitted to the Agency in support of applications for pesticide registrations, petitions for the establishment of tolerances for pesticide residues, and experimental use permits.

While some pesticide companies have their own laboratories and testing facilities, many companies contract with independent testing laboratories to conduct these tests on their behalf. The reports ultimately submitted to EPA by applicants and petitioners are usually prepared by the independent laboratories, which often retain the raw data and laboratory records underlying these reports in their own archives.

EPA does not currently have jurisdiction to enter independent testing laboratories to inspect these records without the consent of the laboratory. However, because EPA as well as private industry has become aware of the fact that the data currently supporting pesticide registrations and tolerances may be inaccurate, incomplete, or otherwise inadequate to support a regulatory decision as to a pesticide's safety, a cooperative effort with applicants and registrants is being initiated with regard to the audit of research records maintained at independent laboratories.

These audits will be designed to: (1) Determine whether the raw data is internally consistent as well as consistent with test reports submitted to EPA by the applicant or registrant; (2) obtain information that may not have been provided in test reports; and (3) identify whether test protocols were followed, whether errors were made or practices employed which may have materially affected the validity of the test results, and whether test reports fully and accurately disclosed all material facts regarding the actual test procedures and results. The scope of such audits will be limited to review of the records pertaining to particular studies and will not extend to overall "good laboratory practice" inspections of the laboratories themselves. The success and effectiveness of this cooperative effort will determine whether legislative changes to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are needed to authorize EPA to enter independent laboratories for the purpose of conducting such audits.

This assessment of the validity and quality of data produced by pesticide-testing institutions for currently registered pesticide products will eventually be coordinated with the reregistration effort. Data audits will be triggered by data deficiencies identified during the re-review and validation of the data bases for human hazard assessment. It is also expected that after the reregistration effort is complete, the auditing program will concern itself more with recent or on-going studies sponsored by registrants or applicants to assure the continued quality of data.

Responsibility for managing TDAP rests with the Office of Special Pesticide Reviews, which is scheduled to audit records held at 60 laboratories in fiscal year 1978. Hearings are being held at this time to provide an open forum for the presentation of views concerning the merit of conducting such audits as part of a cooperative effort with applicants, registrants, and independent testing laboratories. The hearings will provide an opportunity to discuss such subjects as: (1) The necessity and appropriateness of the cooperative effort as a means of assuring the quality and integrity of data submitted to the Federal government, (2) the elements of the monitoring/surveillance mode, (3) interagency coordination of audits, (4) international implications of TDAP and (5) record retention.

Both written and oral remarks are solicited. Oral presentations will be limited to thirty (30) minutes. Any person who desires to make an oral presentation at any of the hearings must provide a written copy of remarks for inclusion in the record. Those who wish to attend the hearings and/or participate in the proceedings are requested to make a reservation in advance of the scheduled hearing. Hearing coordinators, locations, and dates are as follows:

Location: Travel Lodge at the Wharf, 250 Beach Street, The Golden Gate Room, San Francisco, Calif. 94133.
Date: November 2, 1977, 9 a.m.-5 p.m.
Hearing Coordinator: Nancy Frost, phone: 415-556-3352.

Location: Midland Hotel, 172 West Adams, Chicago, Ill. 60603.
Date: November 4, 1977, 9 a.m.-5 p.m.
Hearing Coordinator: Bernadette Hughes, phone: 312-353-2193.

Location: Environmental Protection Agency, 401 N Street SW., Room 3305-3307 of the Mall, Washington, D.C. 20460.
Dates: November 9 and 10, 1977, 9:00 a.m - 5 p.m.
Hearing Coordinator: Jan B. Wine, phone: 202-755-5687.

Written comments should not be submitted to hearing coordinators. Such comments should be addressed to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before November 30, 1977, and must bear a notation indicating both the subject matter and the document control number "OPP-210010". All written comments filed in response to this notice and hearing records will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: September 27, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-28921 Filed 9-30-77;8:45 am]

[6560-01]

[FRL 800-6]

LOUISIANA-PACIFIC CORP. AND CROWN SIMPSON PULP CO.

Requests for Variances From BPCTCA—Final Decision of the Administrator

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision of Administrator.

SUMMARY: On March 17, 1977 the California State Water Resources Control Board adopted orders finding that variances from EPA's BPCTCA effluent limitations guidelines for the Pulp, Paper and Paperboard Point Source Category (40 CFR Part 430) would be appropriate for the Louisiana-Pacific Corporation (NPDES NO. CA 0005894) and the Crown Simpson Pulp Company (NPDES NO. CA 0005882). In essence, the State Board found that the two pulp and paper mills in question discharge their wastes to the Pacific Ocean and that treatment of these discharges to the degree required by applicable EPA regulations would result in little (if any) water quality improvement while at the same time creating non-water quality environmental impacts. The EPA regulations in question are national standards which are to be met by all point sources of pollution within the bleached kraft sector of the pulp, paper and paperboard category by July 1, 1977 pursuant to sections 301(b) (1) (A) and 304(b) (1) of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500). Each of these regulations, known as best practicable control technology currently available (BPCTCA) effluent limitation guidelines, contain a variance provision which provides that upon a finding that one or more factors pertaining to a particular discharger are fundamentally different from the factors considered by EPA in establishing the BPCTCA regulations, alternative requirements may be established for that discharger. The Administrator must approve any such variance. On March 29, 1977 the State Board forwarded its orders to EPA and requested the Administrator's approval of variances for the two mills. The State Board orders also adopted discharge requirements for the two mills which would be applied if the variance requests are approved. These requirements are substantially less stringent than the requirements based upon the national standards.

On June 2, 1977 notice was given in the FEDERAL REGISTER that the General Counsel had issued a Recommended Decision of the Administrator which recommended denial of the variance requests. 42 FR 28167-72. The notice provided opportunity for public comment on the Recommended Decision, which was published as an Appendix. Comments were received from Crown Simpson Pulp Co. and Louisiana-Pacific Corp. (joint submission), the law firm of Hunton & Williams (on behalf of the Utilities Water Act Group and other petitioners in *Appalachian Power Co.* v. *Train*), Southern California Edison Co., East Bay Utility District, and the National Wildlife Federation. All comments were carefully considered prior to issuance of the Administrator's Decision and responses to major comments are included in the decision.

The Decision of the Administrator denies the variances requests. The Federal Water Pollution Control Act forbids consideration of the nature or quality of particular receiving waters in adopting BPCTCA effluent limitations guidelines and in applying them to individual point sources. Under the Act water quality standards may require a discharger to meet more stringent requirements than BPCTCA, but water quality considerations may not be the basis for less stringent requirements. BPCTCA effluent limitations are nationally uniform technology based regulations which are to be imposed "regardless of (the) location (of point sources) or the nature of the water into which the discharge is made * * *." Conference Report at 126, A Legislative History of the Water Pollution Control Act Amendments of 1972 at 309.

Copies of the Administrator's Decision are available from the Office of General Counsel, Water Quality Division.

ADDRESS: Copies of the Final Decision of the Administrator may be obtained by writing to: Environmental Protection Agency, Office of General Counsel, Water Quality Division (A-131), 401 M St. SW., Washington, D.C. 20460. ATTN: Bruce Diamond.

FOR FURTHER INFORMATION CONTACT:

Bruce Diamond, 202-755-0760.

Dated: September 28, 1977.

JOAN Z. BERNSTEIN,
Acting General Counsel.

[FR Doc.77-29078 Filed 9-30-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

PUBLIC TELEPHONE NETWORK

Use of Automated Dialing Devices to Present Unsolicited Recorded Messages; Order Extending Time for Filing Replies to Petition for Issuance of Notice of Inquiry and Notice of Proposed Rulemaking

Adopted: September 27, 1977.

Released: September 28, 1977.

In the matter of the use of automated dialing devices to presnt unsolicited recorded messages over the public telephone network, RM-2955.

1. A Public Notice released September 13, 1977[1] (Report No. 1074), listed a petition for rulemaking filed by Walter Baer and the Citizens Communications Center, in which the Commission was requested to issue a Notice of Inquiry and Notice of Proposed Rulemaking "to consider protecting telephone subscribers from nuisance, annoyance, and invasion of privacy resulting from the use of automated dialing devices to present unsolicited recorded messages over the public telephone network."

2. The petition suggested that the rulemaking:

(a) Consider restrictions on the use of automated dialing devices for presenting unsolicited recorded messages to telephone subscribers;

(b) Designate means by which telephone subscribers can indicate that they do not wish to receive unsolicited advertising messages, and specify penalties to advertisers who violate such subscribers' desires for privacy;

(c) Designate special tariffs for telephone sales campaigns to fully reflect their cost of service; and

(d) Require users of automated dialing devices to precede each recorded message with an announcement identifying it as coming from an automated dialing device.

3. In consideration of the fact that the wording of the Public Notice might be misconstrued as to the nature of the Petition, and in further consideration of interest already shown in this matter, *it is ordered,* That the time for filing responses to the petition for rulemaking, RM-2955, is extended to and including November 14, 1977.

4. This action is taken pursuant to authority delegated in §§ 0.291 and 0.303 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-29013; Filed 9-30-77;8:45 am]

[1] NOTE.—This notice was not published in the FEDERAL REGISTER.

[6730-01]

FEDERAL MARITIME COMMISSION

[Docket No. 77-47]

Order to Show Cause

FAR EAST CONFERENCE AMENDED TARIFF RULE REGARDING THE ASSESSMENT OF WHARFAGE AND OTHER ACCESSORIAL CHARGES

The Far East Conference (FEC), operating under Agreement No. 17, as amended, is a conference of common carriers providing liner service from the United States Atlantic and Gulf ports to ports in the Far East.

On May 24, 1977, the FEC filed an amendment (Rule 1(a) (1) to its Tariff FMC No. 10) modifying its tariff rules to provide that wharfage and other charges which are assessed by the terminal operators against the vessel will be rebilled by the carrier for the account of the cargo. This tariff amendment, originally scheduled to become effective on August 23, 1977, was subsequently postponed until October 1, 1977.

Wharfage charges are assessed against the vessel at the majority of the North and South Atlantic ports. The carriers presently absorb the costs of wharfage at these ports except at New York where wharfage is included in the stevedoring contracts. FEC's revised tariff will reverse that practice except at New York where no charge called "wharfage" exists. The basic freight rates charged by the conference carriers are the same at all the involved ports.

The assessment of different warfage charges at each port (except New York), and the absence of any such charge at New York results in the assessment of different rates to shippers at these ports. Section 205, Merchant Marine Act of 1936, provides that it shall be unlawful for:

> * * * any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any other such carrier from serving any port designed for the accommodation of ocean-going vessels located on any improvement project authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly served by it.

Conference tariff modifications which in effect result in varying costs at ports in the U.S. Atlantic and Gulf range have been found to contravene section 205 of the Merchant Marine Act, 1936. *Associated Latin American Freight Conferences and the Association of West Coast Steamship Companies, Amended Tariff Rules Regarding Wharfage and Handling Charges,* 15 F.M.C. 151 (1972). In that proceeding, the Commission concluded that section 205 removes from the Commission's jurisdiction all authority to approve under section 15 of the Shipping Act, 1916 any activity proscribed by section 205 and requires the Commission to disapprove such activity.

The members of FEC have treated the assessment of wharfage differently at the ports on the U.S. Atlantic and Gulf range in the past and the proposed tariff modifications represent a drastic change affecting numerous parties in the shipping community. By assessing varying rates and charges among federally improved continental U.S. ports, the FEC's actions appear to contravene section 205 of the Merchant Marine Act, 1936, and to be contrary to the public interest in violation of section 15, Shipping Act, 1916.

In addition, it is possible that FEC's proposed rule would give an undue preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to undue or unreasonable prejudice or disadvantage in violation of section 16, First, and that the collection of charges by FEC under its proposed rule would also result in unjust discrimination and constitute an unreasonable practice or regulation in violation of section 17, Shipping Act, 1916.

It appears that a proceeding is necessary to permit FEC to show cause why its proposed tariff rule relating to the assessment of wharfage and other charges prescribed by its tariff rule herein at issue should not be cancelled and stricken from its tariff as being in violation of the aforementioned statutes.

Now, therefore, *it is ordered,* That pursuant to sections 15, 16, First, 17 and 22 of the Shipping Act, 1916, the Far East Conference and its member lines as listed in Appendix "A" be named respondents in this proceeding and that such respondents be ordered to show cause why the Commission should not find the provisions of its proposed tariff rule relating to the assessment of wharfage to be contrary to the public interest in violation of section 15; to result in the giving of an undue or unreasonable preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to unreasonable prejudice or disadvantage in violation of section 16, First; to result in the assessment of varying rates and charges which are unjustly discriminatory and constitute an unreasonable practice or regulation in violation of section 17; and to be in contravention of section 205, Merchant Marine Act, 1936; and, accordingly, why the Far East Conference should not be ordered to modify its tariff rules to correct such violations.

It is further ordered, That this proceeding be limited to submission of affidavits of fact and memoranda of law, and replies thereto. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove these facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 25, 1977. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business October 28, 1977. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business November 18, 1977.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon the respondents.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties and participate herein shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than close of business October 14, 1977.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies, as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Far East Conference, Gerald J. Flynn, Chairman, 40 Rector Street, New York, N.Y. 10006.
American Export Lines, Inc., 17 Battery Place, New York, N.Y. 10004.
American President Lines, Ltd., 1950 Franklin Street, Oakland, Calif. 94612.
Barber Blue Sea Line, 17 Battery Place, New York, N.Y. 10004.
Japan Line, Ltd., c/o Japan Line (U.S.A.), Ltd., One California Street, San Francisco, Calif. 94111.
Kawasaki Kisen Kaisha, Ltd., c/o "K" Line-Kerr Corp., 90 Washington Street, New York, N.Y. 10006.
Maritime Company of the Philippines, Inc., c/o Pacific Coast Tariff Bureau, 460 Mission Street, San Francisco, Calif. 94105.
Mitsui, O.S.K. Lines, One World Trade Center, Suite 2211, New York, N.Y. 10048.
A. P. Moller-Maersk Line, One World Trade Center, Suite 3527, New York, N.Y. 10048.
Nippon Yusen Kaisha Line, 100 Mission Street, San Francisco, Calif. 94105.
United States Lines, Inc., One Broadway, New York, N.Y. 10004.
Waterman Steamship Corp., 120 Wall Street, New York, N.Y. 10005.
Yamashita-Shinnihon Steamship Co., Inc., c/o Texas Transport & Terminal Co., Inc., 21 West Street, New York, N.Y. 10006.

[FR Doc.77-29042 Filed 9-30-77;8:45 am]

[6730-01]

INDIANA PORT COMMISSION AND MID-CONTINENT COAL AND COKE CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. William E. Daily, Assistant Attorney General, State of Indiana, 219 State House, Indianapolis, Ind. 46204.

Agreement No. T-3511, between Indiana Port Commission and Mid-Continent Coal & Coke Co. (Mid-Continent), provides for the renewable five-year lease of approximately 7.7 acres of land. The premises will be used in the installation and operation of a coke screening and processing facility and the transportation of the material. As compensation, Mid Continent will pay, as ground rental, $3,154 per acre per annum plus annual administrative and maintenance fees of $3,360. Mid-Continent will pay tariff charges and guarantee a minimum annual charge as set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: September 28, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29040 Filed 9-30-77;8:45 am]

[6730-01]

MATSON NAVIGATION CO. AND SAIPAN STEVEDORE CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Senior Counsel, Matson Navigation Co., P.O. Box 3933, San Francisco, Calif. 94119.

Agreement No. 10313 would authorize Matson Navigation Co. (Matson) to deliver tandem axle semi-trailers to Saipan Stevedore Company on the pier alongside Matson's transporting ocean vessel at Saipan, Northern Mariana Islands in order that Saipan Stevedore Company can use the trailers or permit the trailers to be used by others to haul Matson's containers in Saipan in accordance with the terms and conditions set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: September 28, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29041 Filed 9-30-77;8:45 am]

[6730-01]

PORT AUTHORITY OF GUAM AND UNITED STATES LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Stuart R. Breidbart, Corporate Council, United States Lines, Inc., One Broadway, New York, N.Y. 10004.

Agreement No. T-3515, between the Port Authority of Guam (Port) and United States Lines, Inc. (USL), provides for the nonexclusive preferential assignment of one berth and one container gantry crane for each mainland liner service vessel owned or under the control of USL, upon its arrival at the Port of Guam, Apra Harbor, Agana, Guam, for purposes of discharging or loading containers. In addition, the Port grants to USL as a secondary right of assignment, one additional container gantry crane as available during such periods. These assignments shall be for one USL vessel at any one time.

As compensation, the Port is to receive all tariff charges applicable to the use of the berth and cranes. In addition, USL shall continue to assist the Port in technical and administrative matters related to the second gantry crane, and shall continue to make certain reasonable representations and guarantees to lending institutions to assist and insure that the Port obtains the necessary financing to enable it to purchase said crane.

By Order of the Federal Maritime Commission.

Dated: September 27, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29039 Filed 9-30-77;8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Docket No. ER 77-521]

ARIZONA PUBLIC SERVICE CO.

Order Denying in Part and Granting in Part Motions for Reconsideration and Establishing Procedures

SEPTEMBER 26, 1977.

On July 21, 1977, Arizona Public Service Co. (Company) submitted for filing proposed increased rates and charges for jurisdictional sales to seven of its customers.[1] By order issued August 1, 1977, the Commission accepted the filing and suspended the effectiveness of the proposed rates and charges for 5 months, after which they are to become effective subject to refund.

On August 2, 1977, Maricopa County Municipal Water Conservation District No. 1 (Maricopa) filed a petition to intervene in the proceeding. Notice Granting Intervention to Maricopa was issued on August 19, 1977. On August 17, 1977, Maricopa filed a Protest and Motion for Reconstruction of the August 1 order.

The Company filed an Answer to Maricopa's Motion for Reconsideration on September 2, 1977. The other six jurisdictional customers (6 customers) subject to the Company's filing tendered for filing a Protest and Motion for Reconsideration of the August 1 order on August 30, 1977.[2] The Company filed an An-

[1] Maricopa County Municipal Water Conservation District No. 1, Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District and Buckeye Water Conservation and Drainage District.

[2] The six customers were granted intervention by Notice issued August 24, 1977.

swer to the Motion of the 6 customers on September 12, 1977.

Maricopa's motion requests rejection of the Company's filing on essentially grounds. First, Maricopa notes that the Company submitted Period I data for the twelve month period ending December 31, 1976, the same time period as the Company's Period II Test Period in Docket No. ER76-530.[3] Maricopa complains that the company used actual data for its Period I, which increases the cost of service figures, even though it utilized estimated figures for its Period II data in the ER76-530 docket. There is nothing improper in this approach. In fact, the Commission's Regulations[4] require actual data to be used in compiling Period I figures[5] (and estimated data for Period III.

Maricopa's other argument concerns a cost of service issue: the contention that the proposed rates are discriminatory because only a portion of the total jurisdictional sales is involved in this filing and the Company has grouped the other jurisdictional customers with its retail customers into a single category for cost of service purposes. Whatever the merit of this contention, it is appropriate that it be handled as an issue in the public hearing called for in the August 1 order. The initial conference date shall be set in an ordering paragraph below.

In its Motion, Maricopa complains that our August 1 order in this docket was issued prior to the issuance of notice of the filing, thereby preventing Maricopa from presenting arguments opposing the filing prior to the issuance of the suspension order. In its answer to Maricopa's Motion, the Company points out that Maricopa lost no substantive right in having its arguments considered on reconsideration rather than prior to the issuance of the August 1 order. The Commission agrees. We have fully reviewed Maricopa's pleading in preparation of this order and have discovered no viable argument raised therein which requires changing the August 1 order.

The Motion for Reconsideration of the 6 customers points out that the August 1 order neglected to mention that the rates to four of the customers, Electrical District No. 3, Electrical District No. 6, Roosevelt Irrigation District and Maricopa cannot become effective pending final Commission determination of the just and reasonable rate level in accordance with the order issued March 31, 1976 in Docket No. ER76-530. The March 31 order held that the agreements with these 4 customers provided only for a prospective application of the rates. The Commission agrees with the position taken in the Motion of the 6 customers.

The Motion of the 6 customers also asserts that the contract between the Company and Buckeye Water Conservation and Drainage District (Buckeye) contains the same clause which caused the Commission to require prospective application only of rates to the four customers in Docket No. ER76-530. A review by the Commission of all the contracts reveals that the contracts between the Company and Buckeye, and between the Company and Electrical District No. 7 contain, in the pertinent contract section, language which is substantially the same as that of the four customers. Therefore, we shall revise our August 1 order to eliminate the suspension period for all customers except for Electrical District No. 1 and to prohibit the effectiveness of their proposed rates until just and reasonable rates are approved by the Commission after investigation under Section 206 of the Federal Power Act.[6]

The Motion of the 6 customers additionally states that it incorporates by reference the Protest and Motion for Reconsideration of Maricopa. To the extent that the Maricopa Motion and arguments raised therein are part of the Motion of the 6 customers, the Motion for reconsideration is denied.

The Commission finds: (1) Good cause does not exist to grant Maricopa's Motion for Reconsideration of the August 1, 1977 order.

(2) Good cause exists to grant in part and to deny in part the Motion For Reconsideration of Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District and Buckeye Water Conservation and Drainage District.

(3) Good cause exists to set an initial conference date in this docket.

The Commission orders: (A) The Motion for Reconsideration of Maricopa is hereby denied.

(B) The Motion for Reconsideration of Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District, and Buckeye Water Conservation and Drainage District is hereby granted in part and denied in part.

(C) The February 1, 1978 effective date as set forth in the August 1, 1977, order in this docket is hereby withdrawn as to all customers except Electrical District No. 1. The rates proposed by the Company shall not become effective pending final Commission determination of the just and reasonable rate level, with the exception of those rates applicable to Electrical District No. 1, which shall become effective February 1, 1978, subject to refund.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 22, 1977.

(E) A Presiding Administartive Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on December 2, 1977, at 10 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28965 Filed 9-30-77;8:45 am]

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[3] An earlier docket involving the jurisdictional customers in the above-captioned docket. The decision in the Docket No. ER 76-530 rate case is still pending.

[4] See Section 35.13(b)(4)(iii).

[5] The Company did not provide Period II figures. Since the Company's proposed increase was less than $1 million, Period II figures were not mandatory.

[6] The Company's Answer to the Motion of the 6 customers points out that the Commission, in Docket No. ER76-530, held that the Company's contract with Electrical District No. 1 did not preclude a Section 205 filing. This determination is on appeal to the District of Columbia Circuit Court of Appeals.

[6740-02]

[Docket Nos. CS71-697, 49 and 465]

BURK ROYALTY CO. ET AL.

Notice of Petition for Declaratory Order

SEPTEMBER 26, 1977.

Take notice that on July 29, 1977, Burk Royalty Co., Tom Darling, Jon H. Bear, and Oleum, Inc. (Petitioners) filed a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure.

Petitioners are small producers and were granted small producer certificates in the above-captioned dockets. On January 1, 1973, Petitioners acquired the Shaw "A" Lease located in Iberia Parish, La. on which two wells had been drilled, the Shaw No. 1 and the Shaw No. 2 Wells. The No. 1 Well was completed as a gas well at a depth of 9915-9919 feet in the Lower Siphonion Davis "B" Sand. The No. 2 Well was completed as a gas well at a depth of 10,104-10,110 feet in the Lower Siphonion Davis "B" Sand. The subject lease has never produced from any reservoir except the Lower Siphonion Davis "B" Sand. The interests of Burk Royalty, Darling, and Bear were acquired from Cities Service Oil Co. (Cities Service), a large producer. The interest of Oleum was acquired from Falcon Seaboard, Inc., a small producer.

In March, 1973, production ceased and between May 15, 1973, and January 1, 1974, Petitioners performed extensive workover and remedial operations on the No. 1 and No. 2 Wells attempting to obtain commercial gas production in the previously produced reservoir and in seeking gas production in a new and different reservoir, being the Upper Siphonion Davis "B" Sand, which had never produced or been developed on Petitioners' Shaw "A" Lease. These operations were not successful on the No. 2 Well.

In the No. 1 Well, when production could not be restored in the previously

produced formation, Petitioners set a bridge plug at 9890 feet and reperforated the well from 9845 feet to 9872 feet, being in the Upper Siphonion Davis "B" Sand. Although problems developed and the well has not yet been recompleted, Petitioners believe that with additional work and expenditures, commercial gas production can be obtained from said new perforations in said No. 1 Well. Accordingly, Petitioners desire to re-enter the No. 1 Well and attempt to complete same as a producer of gas from the new perforations in the Upper Siphonion Davis "B" Sand.

Production from the Shaw "A" lease is dedicated to a December 9, 1959 gas purchase contract between Cities Service and Southern Natural Gas Company (Southern Natural) which provides for a price of approximately 30.09 cents per Mcf. By letter agreement dated December 2, 1976, Southern Natural has agreed to pay Petitioners whatever rate this Commission finds to be just and reasonable.

Petitioners are of the opinion that they are entitled, pursuant to the provisions of Opinion No. 770–A, to a rate of 130% of 52 cents per Mcf, exclusive of production, severance or similar taxes, and subject to the adjustments and escalations provided in that opinion. Therefore, Petitioners request that the Commission issue a declaratory order stating that the gas reserves produced from the Upper Siphonion Davis "B" Sand in the Shaw "A" No. 1 Well (a) were not acquired by the purchase of developed reserves in place from a large producer, (b) are the result of a completion operation into a different formerly nonproductive reservoir commenced after January 1, 1973, and (c) are small producer reserves developed by a natural gas company while in the status of a small producer.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 12, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28966 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ES77-68]

CENTRAL TELEPHONE & UTILITIES CORP.

Notice of Application for Authority To Issue Securities

SEPTEMBER 23, 1977.

Take notice that on September 13, 1977, Central Telephone & Utilities Corp. (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking authority to extend to not later than December 31, 1980, the final maturity date of short-term unsecured promissory notes to be authorized to be issued not later than December 31, 1978, in an aggregate principal amount at any one time outstanding of $85,000,000.

Applicant is incorporated under the laws of the State of Kansas, with its principal business office in Chicago, Ill. It is engaged in electric utility operations in the southeastern part of Colorado and the central and western portions of the State of Kansas.

The proceeds from the issuance of short-term notes are to provide temporary funds for the construction, completion, extension or improvement of facilities of Applicant and for advances to and investment in subsidiaries of Applicant to be used for the construction and improvement of facilities of such subsidiaries pending permanent financing. The estimated construction programs for the above purposes for 1978, 1979, and 1980 are $175,000,000, $187,000,000, and $179,000,000, respectively.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protect in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party must file a petition to intervene. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28958 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-589]

DUKE POWER CO.

Notice of Supplement to Electric Power Contract

SEPTEMBER 26, 1977.

Take notice that Duke Power Co. (Duke Power) tendered for filing on September 19, 1977, a supplement to the Company's Electric Power Contract with Blue Ridge Electric Membership Corp. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. Rate Schedule FPC No. 131.

Duke Power further states that the Company's contract supplement, made at the request of the customer, provides for increases in the designated KW at Delivery Points Nos. 2, 3 and 4. Duke Power indicates that these increases are from 8,500 to 12,000, from 11,000 to 15,000 and from 90,000 to 110,000 kilowatts, respectively. Duke Power further indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of October 19, 1977.

Duke Power indicates that a copy of this filing was mailed to Blue Ridge Electric Membership Corp. and the North Carolina Utilities Commission.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 3, 1977. Protests will be considered by the Commissioner in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28967 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. RP77-17]

EASTERN SHORE NATURAL GAS CO.

Notice of Filing of Revised Tariff Sheets

SEPTEMBER 23, 1977.

Take notice that on September 15, 1977, Eastern Shore Natural Gas Co.

(Eastern Shore) tendered for filing revised tariff sheets which Eastern Shore states will provide: (1) for crediting the jurisdictional portion of demand-charge credits in accordance with a settlement agreement in its rate case in Docket No. RP77–17, and (2) for the addition of an unrecovered purchased gas cost account to the purchased gas cost adjustment clause of its FPC Gas Tariff.

Eastern Shore states that copies of these tariff sheets have been mailed to its jurisdictional customers and interested state commissions.

Any party desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of tre Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–28959 Filed 9–30–77;8:45 am]

[6740–02]

[Project No. 2640]

FLAMBEAU PAPER CO. AND CAPITOL CITIES MEDIA, INC.

Notice of Application for Transfer of License

SEPTEMBER 23, 1977.

Public notice is hereby given that an application was filed on July 25, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r by the Flambeau Paper Co. and Capitol Cities Media, Inc. (Correspondence to: Norman C. Hoefferle, President, Flambeau Paper Co., Park Falls, Wis. 54552; and Danny R. Carpenter, Esq., Watson, Ess, Marshall & Enggas, 1500 Home Savings Building, 1006 Grand Avenue, Kansas City, Mo. 64106) for transfer of license for the Upper Hydro-Electric Project No. 2640 located on the North Fork of the Flambeau River in the City of Park Falls, Price County, Wis. The Flambeau Paper Co. merged into Capital Cities Media, Inc. which is the surviving entity. The Flambeau Paper Co. proposes to transfer its license for Project No. 2640 to Capitol Cities Media, Inc.

The Upper Hyro-Electric Project consists of:

(1) A reinforced concrete gravity dam approximately 100 feet long and 15 feet high; (2) four steel tainter gates, each 20.5 feet long; (3) a needle dam approximately 44 feet long; (4) a reservoir with a maximum operating head of 19.3 feet at elevation 1487.4 feet (U.S. G.S.); (5) a 1,300-foot long power canal; (6) three short, open reinforced concrete flumes with steel headgates; (7) a powerhouse containing three 650 horsepower turbines and two 450 kW generators (one turbine is not in use); and (8) appurtenant facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–28960 Filed 9–30–77;8:45 am]

[6740–02]

[Docket No. ER77–531]

ILLINOIS POWER CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Providing for Hearing and Establishing Procedures

SEPTEMBER 23, 1977.

On July 29, 1977, Illinois Power Co. (Illinois) tendered for filing a proposed rate increase of $176,479 (32%) for a 12 month test period ending on September 30, 1978. The proposed increase is applicable to the Village of Ladd, the City of Oglesby and Cedar Point Light and Water Co. (Municipalities), all located in Illinois. The designation of the rate schedules is set forth in the Appendix to this order. Illinois requests an effective date of September 26, 1977, which is 5 days before the beginning date of the Period II future test year study submitted.[1]

In support of its filing, Illinois states that expanded construction and capital costs, and operating expenses incurred since its last effective rate increase[2] have necessitated the proposed increase.

Public notice of the filing was issued on August 5, 1977, with comments, protests or petitions to intervene due on or before August 19, 1977.

On August 19, 1977, the Municipalities filed a joint petition for an extension of time within which to file a petition to intervene. On September 2, 1977, the Commission's Secretary issued a notice extending the time to file petitions to intervene to September 9, 1977.

On September 9, 1977, the Municipalities filed a joint document, moving to reject, summarily dispose and protesting Illinois' filing, and requesting leave to intervene. Since the Municipalities have substantial interests which may be affected by the subject matter of this proceeding, the Commission will permit intervention.

In support of its combined motions, the Municipalities argue that:

1. Illinois' unilateral rate increase to the Village of Ladd is precluded by the contract provisions falling within the *Sierra-Mobile* doctrine.[3]

2. Illinois' demand allocation method, rate of return and assignment of 69 kV lines should be summarily rejected based on the Commission's August 1, 1977, Opinion No. 816 in Docket No. E–9520.

3. The rate increase to the City of Oglesby and Cedar Point Light and Water Co. would be discriminatory since these two customers will be served at higher rates than other customers of the same class.

4. The allocation of rate case expense is improper.

5. The filing should be summarily rejected since the terms and conditions of service are anti-competitive.

The argument that the Village of Ladd's contract with Illinois protects it from the company's unilateral rate filing, is unpersuasive. The Commission decided by order issued May 7, 1976, in Docket No. E–9520,[4] that the contract with Ladd is not of the *Sierra-Mobile* fixed rate variety. The Village of Ladd has not presented any arguments that require any modification of that prior determination.

The Municipalities request the Commission to require Illinois to amend its filing to conform to the Commission's determination on three issues in its Opinion No. 816, i.e., demand allocation, rate of return and assignment of 69 kV lines. Our decision in Opinion No. 816 was issued on August 1, 1977, and was based on a 1974 test period. Petitions for rehearing of that Opinion have been filed and are presently pending Commission action. The instant filing was tendered July 29, 1977, three days before the issuance of Opinion No. 816 and was based on a test period ending September 30, 1978. Thus, since the facts underlying the three issues may differ sufficiently to warrant different determinations, we are precluded from summarily disposing of those three issues in the instant proceeding. However, since the merits of those issues have recently been litigated and decided by us in Opinion No. 816, we shall consider our opinion there controlling on these issues and, if Illinois elects to pursue its position on those issues, it shall have the burden of showing significant new facts or changed circumstances that warrant modification of those decisions. Illinois may, however, determine that the facts and circumstances do not warrant

[1] 18 CFR § 35.13(b)(4)(iii)(1977).

[2] Illinois' previous rate increase was allowed to become effective, subject to refund, on January 1, 1976, in Docket No. E–9520. On August 1, 1977, the Commission issued its Opinion No. 816 in Docket No. E–9520.

[3] *United Gas Co.* v. *Mobile Gas Corp.*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[4] The Village of Ladd has sought review of this order in *City of Oglesby, et al.* v. *F.P.C.*, CADC No. 76–1585.

relitigation of the three issues. In that event, Illinois is encouraged to refile its rate increase proposal to reflect our determination of the three issues in Opinion No. 816.[5]

The other issues raised by the Municipalities, whether the rates proposed are discriminatory or anti-competitive and whether rate case expenses have been properly allocated, present factual questions which should be resolved through the Commission's hearing procedure.[6]

Illinois requests an effective date of September 26, 1977 for its proposed rates. In essence, Illinois is requesting waiver of our Regulation that requires the utility's Period II future test year study to begin no later than the proposed effective date[7] since Illinois' Period II begins on October 1, 1977. However, Illinois has not shown any justification for waiver. Thus, we will deny its request for a September 26, 1977, effective date and will accept the tender for filing, effective October 1, 1977, pursuant to Illinois' Period II test year study.

Our review of Illinois' filing indicates that the proposed increase in rates and charges have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Based on this review of the filing, we will accept the proposed rates for filing, suspend their effectiveness for 5 months from October 1, 1977, and establish hearing procedures.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Illinois Power Co. on July 29, 1977, establishing procedures for the hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Participation of the Village of Ladd, the City of Oglesby and Cedar Point Light and Water Co. in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 205, 206, 301, 307, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Illinois Power Co. in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Illinois Power Co. on July 29, 1977, and identified in the Appendix to this order are hereby accepted for filing as of October 1, 1977, suspended and the use thereof deferred until March 1, 1978, when they shall become effective, subject to refund

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 6, 1978. (See, Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See, Delegation of Authority, 18 CFR § 3.5(d)), shall preside at an initial conference in this proceeding to be held on a date certain within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(F) Petitioners are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(G) Within 60 days Illinois may file substitute rate schedules consistent with Opinion No. 816 as to the determination of the issues of demand allocation, rate of return, and assignment of 69 kV lines.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX

ILLINOIS POWER CO.

Dated: July 29, 1977.
Filed: July 29, 1977.

Wholesale Electric Service for Resale

Designation	*Other party*
Supplement No. 4 to Rate Schedule FPC No. 26 (Supersedes Supplement No. 3).	Village of Ladd.
Supplement No. 4 to Rate Schedule FPC No. 28 (Supersedes Supplement No. 3).	Village of Oglesby.
Supplement No. 4 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 3).	Cedar Point Light & Water Co.

[FR Doc.77-28961 Filed 9-30-77;8:45 a.m.]

[5] *United Gas Pipeline Co.*, 51 FPC 1014, 1020, 1021 (1974); *Panhandle Eastern Pipeline Co.*, 13 FPC 1570, *aff'd.*; 236 F. 2d 606 (3rd Cir. 1956).

[6] *Municipal Light Boards* v. *F.P.C.*, 450 F.2d 1341 (D.C. Cir. 1971).

[7] 18 CFR § 35.13(b) (4) (iii) (1977).

[6740-02]

[Docket Nos. ER77-411, 412, 413, 414, 415, 416, and ER77-23, 24, 25, 26, 28, 29]

ILLINOIS POWER CO.

Order Denying Reconsideration Rejecting Filing, Accepting for Filing Under § 206, Refunding Monies Collected Under New Rates, Denying Request for Declaratory Order, and Consolidating Proceedings.

SEPTEMBER 23, 1977.

On October 20, 1976, the Illinois Power Co. (Company) tendered for filing proposed Modification No. 2 to its Interconnection Agreements with the city of Mascoutah (ER77-23), the cities of Breese and Carlyle (ER77-24), the village of Freeburg (ER77-25), and the city of Highland (ER77-26). The Company filed identical proposed amendments to the Interconnection Agreements with the city of Peru (ER77-28) and the city of Princeton (ER77-29) on October 22, 1976. The proposed Modification No. 2 provided for an increase in the demand charges for short-term firm and maintenance power transactions. The Company requested an effective date of November 20, 1976 for all six dockets.

Public notice of each of Illinois Power's filings was issued on November 1, 1976, with all protests and petitions to intervene due on or before November 15, 1976. On November 11, 1976, the municipalities of Mascoutah, Breese, Carlyle, Freeburg, Highland, Waterloo, Peru, and Princeton (Cities) filed in one pleading, a petition to intervene, motion for consolidation, and motion to reject. In support of the motion to reject, municipalities alleged that Illinois' filing did not comply with the Federal Power Commission's regulations under section 35.13(b) (4) (i) and (b) (5) (i).

By order issued November 19, 1976, we accepted the proposed Modification, suspended it for one day, and established procedures. We denied the Cities' motion to reject the filing.

On June 30, 1977, the Company tendered for filing proposed increases in its demand charges for short-term firm capacity and for Maintenance Power

Capacity for service to the same seven municipals.[1] The filing was initially submitted on May 31, 1977, but was found to be deficient in its omission to notify its State commission. This deficiency was corrected on June 30, 1977. This filing would increase the Company's revenues for this service by $151,148 or 16.67 percent based on the 12-month period ending April 30, 1977.

Public notice of Illinois' filings was given with all protests and petitions to intervene due on or before August 1, 1977. By order issued July 26, 1977, we accepted the filing, waived the notice requirements, and suspended it for one day. The increase became effective July 2, 1977, subject to refund.

On August 1, 1977, the Illinois Municipalities of Highland Mascoutah, Freeburg, Princeton, Peru, Breese, and Carlyle tendered for filing a Petition for Reconsideration of Rehearing, Motion to Reject, Motion to Intervene, Complaint, and Motion to Consolidate.[2] The Cities state that they are customers of the Company and are served under the Interconnection Agreements that are the subject of these proceedings. They allege that they have a direct interest in these proceedings which cannot adequately be protected by any other party.

On August 18, 1977, Illinois Power filed an answer to the Cities' filing. The Company states that it does not oppose consolidation, but the filing argues against Cities' Motion to Reject and answers Cities' Complaint.

The Cities replied to the Company's Answer on August 29, 1977. In their reply, the Cities reiterate their argument and respond to certain statements made by the Company in its answer.

By order issued August 31, 1977, we granted the Cities' motions for intervention and reconsideration. Reconsideration granted was for the limited purpose of further consideration in light of the complex arguments raised by the parties' pleadings. We address these arguments now.

The Cities request that we reconsider our Order waiving notice requirements and allowing the increased rates to become effective subject to refund on July 2, 1977. They base their request upon the Company's failure to submit cost of service data. We waive the case-in-chief filing requirement in that the proposed rates have been previously accepted for filing for other Illinois Power customers receiving similar service[3] and the cost support filed by Illinois Power was sufficient for the Commission's initial determination as to whether the filing should be accepted or suspended. Of course, Illinois Power will have the burden of proof in the hearing to justify its proposed increase and will be required to submit the case-in-chief upon which it is going to rely to support the increase. Cities' motion for reconsideration of the suspension order of July 26, 1977, presents no new facts or principles of law that were not considered by the Commission when it issued that order or, now having been considered, warrant any change or modification of said order.

Cities further argues that the Company's filing must be rejected as violative of the *Mobile-Sierra*[4] doctrine. The salient contract provision relied on by Cities reads as follows:

> The rates and charges provided for by this Agreement shall be reviewed at least annually by the parties and shall be revised if such review reveals that rates, charges, or conditions are not consistent with the then prevailing costs, practices, or other pertinent conditions or do not adequately reflect the net benefits derived from or the costs associated with the transactions under this Agreement or do not adequately take into account the respective generation and transmission investments of the parties. Either party may unilaterally take action to implement the results of such review, or if a party shall "fail in good faith to participate in such review" the other party may unilaterally take action with respect to any of such matters before any regulatory authority having jurisdiction with respect thereto. In such event the rates, charges and conditions shall be those provided for in this Agreement as modified or otherwise authorized by such regulatory authority. (Article XIII, Section 4.)

Upon careful reconsideration of the relevant contractual language and the arguments of the parties, we conclude that section 205 rate increase filings were not contemplated by the parties and, so, are impermissible. We are aware that the Commission has in the past permitted section 205 filings by the Company, but in those instances the contract interpretation issue was not clearly raised. Upon reflection we are now persuaded that the correct result—the one required by the intentions of the parties—is to preclude any rate increase until after a section 206 proceeding.

This result is compelled by an analysis of the last sentence of section 4. When it is read in conjunction with the other language, its proper interpretation becomes evident. Moreover, the language "as modified or otherwise authorized by such regulatory authority" is comparable to the language recently interpreted by the Commission in *Kansas Power & Light Company*, Docket No. ER76-39. In that case, as Cities point out, the Commission interpreted similar language to preclude a section 205 filing.

Section 4 as a whole reveals the parties' intention that rate changes should ideally be the product of mutual discussion and agreement. However, in the event that their discussions do not result in agreement, the contract permits either party to place the entire rate change issue before the Commission for resolution. In speaking of "such event", in the last sentence of section 4, the parties are referring to the possibility that their discussions would not result in agreement. In that event, they intended that any new rate, charge or condition could only be that which the Commission specifically "authorized" following its consideration of the issues. The language of the last sentence of section 4 is in our view unmistakably prospective. It assures the parties, in the event agreement has not been reached, that there will be no change until after they have had an opportunity to express their differing views to the Commission and the Commission has made its final determination in the matter.

This interpretation fully comports with our interpretation of similar "authorizing" language in other contracts. We are, of course, fully aware that language referring to "unilateral" action in other instances has been interpreted by the Commission as permitting section 205 rate filings. This case, therefore, is difficult because of the parties' use of contradictory language. In such instances it becomes necessary to consider all the relevant contractual language and to interpret the contradictory terms in the most reasonable manner. We believe we have done that here in determining that the parties' intentions preclude unilateral rate change by the Company. The Company's filing under section 205 of the Act must, therefore, be rejected. The type of Commission proceeding intended by the parties is that provided for by section 206.[5]

We shall accept the Company's filings in Docket Nos. ER77-411-416 under § 206 of the Federal Power Act and Institute a section 206(a) proceeding to determine the just and reasonable rate for the Company's service to the Cities, all changes prospective in application. The Company shall be required to refund all monies collected under the increased rates.

Cities also filed a complaint for investigation and a request for a declaratory order to determine if the Company has overcharged the Cities for short-term firm energy under the interconnection agreements during the past two years. The Cities allege that the Company has been overcharging them for firm energy deliveries during the past two years.

Cities contend that the overcharge is a result of the Company's method of calculating the energy charge. Cities read the contract to require that the Company must calculate the firm energy charge based on the cost of the entire mix of the company's generation utilized in scheduling the firm power deliveries to the Cities. The pertinent contract provision

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[1] Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415, and ER77-416.

[2] The Cities' petition is in part styled for "reconsideration or rehearing". Since our order of July 26, 1977, is interlocutory no application for rehearing is permitted (18 CFR § 1.34). However, the Commission treated the Application as a Motion for Reconsideration.

[3] Illinois Power Co., FPC Rate Schedule Nos. 9, 11, 48, 50, 63, and 64.

[4] *United Gas Pipeline* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 346 (1956).

[5] See *Appalachian Power Company*, Docket Nos. ER76-799, 800, order issued November 8, 1976, rehearing denied February 25, 1977, appeal pending, *sub nom. Appalachian Power Co.* v. *FPC*, D.C. Cir. No. 77-1232.

is section 3. The energy charge provision provides that the charge per Kwh delivered shall be the supplying party's out-of-pocket costs, plus 10 per cent of such costs. It further states that "out-of-pocket costs shall be based on the costs of fuel, labor, maintenance and operating supplies (including startup costs if any), purchased energy and losses in transmission and transformation, including all other factors that are a part of incremental costs."

The Company contends in its answer that this provision provides that the basis for the energy charge is the incremental cost to the supplier at the time the energy is furnished.

Cities further allege that the short-term energy cost billed to them has been higher than the energy cost billed to wholesale customers under Illinois Power's wholesale Service Classification 40. The Cities also claim that because they elected not to purchase short-term energy on certain occasions, the reservation charges paid by them to the Company on those occasions should be refunded to them. The Company in its answer disagrees with each of these allegations.

The Company requests that the Complaint for investigation and declaratory order to determine alleged overcharges for short-term energy under interconnection agreements either be dismissed or, alternatively, assigned a separate docket number and considered in a separate proceeding.

The issues raised by Cities' Complaint should be addressed during the course of the hearing in this proceeding. We are setting those issues for review under sections 205 and 206 of the Federal Power Act. Cities' request for a separate investigation and declaratory order is denied.

Finally, since there are similar questions of law and fact in all of the captioned dockets, public interest requires that these dockets be consolidated for purposes of hearing but not for the purpose of decision.

(1) Good cause does not exist to grant the Cities' Motion for reconsideration.

(2) Good cause exists to reject the Company's filing under section 205 of the Federal Power Act and to terminate the proceeding heretofore initiated under that section of the Act, as hereinafter ordered.

(3) Good cause has been shown to accept the Company's filing of June 30, 1977 under section 206 of the Federal Power Act.

(4) Good cause exists to institute an investigation under section 206 of the Act to determine just and reasonable rates to be charged to the Cities.

(5) Good cause does exist to address during the hearing those issues raised in the Cities' Complaint pursuant to sections 205 and 206 of the Federal Power Act.

(6) Good cause does not exist to grant the Cities' request for a separate investigation and declaratory order.

(7) Good cause exists to consolidate the above captioned dockets for purposes of hearing only.

The Commission orders: (A) The Cities' Motion for Reconsideration is hereby denied.

(B) The Company's rate filing pursuant to section 205 of the Federal Power Act is hereby rejected.

(C) Ordering paragraph (C) of our order issued July 26, 1977 is hereby stricken and ordering paragraph (B) of that order is hereby amended to replace the words "particularly sections 205 and 206 thereof" with the words "particularly section 206."

(D) The proposed increased rates and charges tendered by the Company on June 30, 1977, are hereby accepted for filing under section 206 of the Federal Power Act.

(E) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, and the Commission's rules and regulations, and the regulations under the Federal Power Act, an investigation is ordered to determine the just and reasonable rates to be charged to the Cities.

(F) All rate increases to the Cities which we may approve shall be effective only from the date of such approval. All amounts collected, subject to refund, related to the proposed increases to the Cities since July 2, 1977, shall be refunded forthwith.

(G) The Cities' request for separate investigation and declaratory order is hereby denied.

(H) The issues relating to short term firm energy are hereby set for hearing pursuant to sections 205 and 206 of the Federal Power Act.

(I) The proceedings in the above-captioned dockets are hereby consolidated for purposes of hearing.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28962 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-606]

NORTHERN STATES POWER CO.

Notice of Interconnection and Interchange Agreement

SEPTEMBER 26, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interchange Agreement, dated September 16, 1977, with the City of New Ulm, Minn.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28969 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-605]

NORTHERN STATES POWER CO.

Notice of Interconnection and Interchange Agreement

SEPTEMBER 26, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interconnection and Interchange Agreement, dated September 16, 1977, with the City of Medelia, Minn.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28968 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER76-532]

PACIFIC GAS AND ELECTRIC CO.

Notice of Further Extension of Time

SEPTEMBER 26, 1977.

On August 19, 1977, the Secretary of the Interior filed a motion for resched-

uling of the procedural dates in the above captioned proceeding. The filing and hearing dates were previously extended by notices issued February 28, 1977, June 2, 1977, August 23, 1977, and August 26, 1977.

The instant motion states that the Commission is still considering the Motion for Approval of Settlement Agreement, filed January 31, 1977, by Pacific Gas and Electric Company (PG&E), and that further filings and a hearing on the issues in this proceeding will be necessary only if PG&E's Motion is denied. The motion states that all parties to the proceeding and Staff Counsel do not object to the requested relief.

Upon consideration, notice is hereby given that the procedural dates in the above designated matter are extended as follows in order to allow the Commission to complete consideration of PG&E's Motion for Approval of Settlement Agreement:

Filing of evidence in answer to PG&E's case-in-chief, November 2, 1977.
Filing of trial briefs by parties answering evidence, November 16, 1977.
Filing of PG&E's rebuttal evidence, November 30, 1977.
Filing of PG&E's trial brief, December 14, 1977.
Hearings, January 24, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28971 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. RP71-119]

PANHANDLE EASTERN PIPELINE CO.

Notice of Petition for Relief

SEPTEMBER 23, 1977.

Take Notice that on September 2, 1977, Quanex Corporation (Petitioner), formerly known in this proceeding as Michigan Seamless Tube Company, filed a petition for relief from the Commission's order of August 31, 1976, dismissing its petition for extraordinary relief and ordering payback. It seeks a reversal of the payback order, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner indicates that it uses natural gas in the manufacture of cold-drawn seamless steel tubing at its Michigan Seamless Tube Division. According to Petitioner, policy guidelines issued by the Commission on March 2, 1973, in Commission Order 467-B, Docket No. R-469 (49 FPC 583) would have subjected Petitioner to 100 percent curtailment of natural gas on or about October 31, 1973. In order to prevent this, Petitioner filed with the Commission a petition for extraordinary relief on August 24, 1973, requesting permission to obtain a minimum of 1,061 Mcf per day of natural gas from Panhandle Eastern Pipeline Company (Panhandle) from October 1, 1973, to August 1, 1974, and 679 Mcf per day thereafter. In addition, Petitioner filed request for temporary emergency relief on December 28, 1973.

By its order of January 14, 1974, in Docket No. RP71-119 (51 FPC 230), the Commission granted Petitioner's request for temporary relief pending a decision on the merits of the petition for extraordinary relief. On August 31, 1976, the Commission issued an order dismissing the petition for extraordinary relief as moot and ordering Petitioner to pay back temporary relief volumes. Petitioner asserts that the petition for extraordinary relief was dismissed as moot, because the interruptible nature of Petitioner's supply contract was afforded a higher priority by Opinion No. 754, issued on February 27, 1976. Opinion No. 754 abolished the distinction between firm and interruptible contracts in assigning service priorities on the Panhandle system.

In support of its request for relief with respect to payback, Petitioner cites the Opinion of the United States Court of Appeals for the Third Circuit in *Hercules, Inc.* v. *FPC*, 552 F. 2d 74 (3rd Cir. 1977). In that case, says Petitioner, the court set aside the payback requirement that had been imposed on Hercules, Inc. by the Commission. The requirement was set aside because it was based on the distinction between firm and interruptible contracts and this distinction had been eliminated by Opinion No. 754. Petitioner also cites two Commission orders issued on March 8, 1974. In an order on that date granting a rehearing to Hercules, Inc. in Docket Nos. RP71-119 and RP74-31-22, says Petitioner, the Commission declared that petitioners who received extraordinary relief under the plan of Order No. 467-B would not be required to pay back gas. Moreover, in another order on that date in Docket Nos. RP71-119, et al., the Commission, according to Petitioner, relieved other petitioners of their payback obligations for any emergency gas received while the plan of Order No. 467-B was in effect.

Petitioner asserts that it received extraordinary relief from the curtailment plan of Order 467-B in the same manner as petitioners subject to the Commission orders of March 8, 1977, and that these orders should therefore relieve Petitioner of its payback obligations. Accordingly, Petitioner requests that the Commission: (1) Order that Petitioner's payback obligations be suspended and direct Panhandle to increase deliveries to Petitioner in an amount sufficient to compensate for those volumes subjected to the improper payback order; (2) order that Petitioner receive the amount of natural gas from Panhandle as is in Petitioner's contract with Panhandle, "subject to the provisions of the revised 754 interim curtailment plan," without reduction; and (3) grant such other relief as is appropriate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The notice and petitions for intervention previously filed in Docket No. RP71-119 will not operate to make those parties interveners or protestants with respect to the instant petitions. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28963 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER76-739]

PUBLIC SERVICE COMPANY OF INDIANA

Notice on Motion

SEPTEMBER 23, 1977.

On August 23, 1977, Public Service Company of Indiana (PSI) filed a motion to correct an order issued August 1, 1977, in Docket No. ER76-739.[1] In its motion, PSI requests that the order be amended to show that Chairman Dunham dissented from the adoption of the order insofar as it instituted an investigation pursuant to Sections 202, 206, 307 and 311 of the Federal Power Act of the circumstances surrounding the termination of the joint planning function of the Kentucky-Indiana Pool Planning and Operating (KIP) Agreement.

On August 5, 1977, Chairman Dunham rescinded his approval of the order issued August 1, 1977 in this proceeding, and directed the Secretary of the Commission to include in the Commission minutes a statement that he had originally voted for the order inadvertently. A majority of the Commission had, however, voted for the order; accordingly, Chairman Dunham's action did not affect adoption of the order, and the order remains in effect.

To reflect the above described occurrence, the Secretary was directed by Chairman Dunham to include in the Commission minutes the following statement:

On August 5, 1977, Chairman Dunham advised the Secretary that he had voted for the order issued August 1, 1977, inadvertently and wanted the minutes to so show.

As directed, that language was placed in the official minutes of the subject meeting. That action does not effect, in any manner, the validity of the order issued herein on August 1, 1977. PSI's

[1] Order Accepting Notice of Termination of Pooling Agreement for Filing, Granting Waiver of Notice Requirements, Instituting Investigation, Denying Motion to Suspend or to Reject and Granting Intervention.

motion filed August 23, 1977, is hereby denied.

By Direction of the Commissioner.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28964 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-523]

PUGET SOUND POWER AND LIGHT CO.

Order Granting in Part Motion for Reconsideration

SEPTEMBER 26, 1977.

On August 1, 1977, the Commission issued an order in this docket which accepted for filing the application of Puget Sound Power and Light Company (PSPL) for rate increases to eleven of its wholesale customers.[1] In that order, we suspend the proposed rate increases until March 1, 1978, when they are to become effective subject to refund.

On August 31, 1977, PSPL filed an "Application for Rehearing" of the August 1, 1977 order. Since the order is interlocutory, no application for rehearing is permitted.[2] However, the Commission will treat the application as a Motion For Reconsideration of the order.

Applicant requests that we reduce the five month suspension imposed in this docket, asserting that the order of August 1, 1977 is unlawful, discriminatory, arbitrary and an abuse of discretion. It is PSPL's contention that the maximum suspension period has been imposed "only when large amounts were involved, where a problem is apparent from the face of the application or where the application is consolidated with an application for a large rate increase."

In its July 22, 1977, filing, PSPL proposed to raise its rates, increasing revenues by $391,045, or 64 percent, based on the 12-month period ending October 1, 1978. Our preliminary review indicated that the proposed increase in rates was not shown to be justified, and we suspended accordingly.

It is well established that decisions regarding the necessity and length of rate increase suspensions lie within the sound discretion of the Federal Power Commission. *Municipal Light Boards* v. *FPC*, 450 F.2d 1349-1352 (D.C. Cir. 1971), cert. denied, 405 U.S. 989 (1972). The Commission's discretionary decision to suspend is based on a number of factors, including, inter alia, the possibly excessive nature of the proposed rate increase, the financial condition of the utility, the financial impact on the wholesale customers and the percentage of a utility's overall revenues derived from wholesale customer accounts. These same factors are appropriate considerations in determining the length of any suspension as well.

These factors were taken into account by the Commission prior to the issuance of its August 1, 1977 order. PSPL's assertion that we have departed from past Commission policy on suspensions under Section 205 of the Federal Power Act is unfounded. We have, however, reconsidered the appropriate length of suspension in this docket and have found that a reduction in the suspension period from five months to one month is warranted.

The Commission finds: PSPL's Motion for Reconsideration of August 31, 1977, should be granted in part.

The Commission orders: (A) PSPL's Motion for Reconsideration is hereby granted, in part.

(B) PSPL's proposed rate increases are hereby suspended for one month, or until November 1, 1977, when they are to become effective subject to refund.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28970 Filed 9-30-77;8:45 am]

[6740-02]

[Docket Nos. AR61-2 and AR63-1, et al.]

AREA RATE PROCEEDING, ET AL., (SOUTHERN LOUISIANA AREA)

Order Directing Disbursement and Flow-Through of Refunds

SEPTEMBER 23, 1977.

On July 16, 1971, the Commission issued its Opinion No. 598 and order establishing just and reasonable rates for jurisdictional sales of natural gas produced in the Southern Louisiana Area. Pursuant to Ordering Paragraph (G) of Opinion No. 598, each producer was given the alternative of discharging its refund obligation through credits for dedication of new gas reserves for sale to interstate pipelines, after August 1, 1971, and prior to October 1, 1977, in addition to those new gas reserves already dedicated to interstate commerce as of October 1, 1970. The producers electing this option were required to refund in cash plus 7 percent interest effective from August 1, 1971, the outstanding refund obligation remaining as of October 1, 1977.

We now require those producers who elected to discharge their refund obligations through credits and who have an outstanding refund obligation remaining to disburse their refund monies on or before October 31, 1977.[1] The producers shall pay interest at the rate of 7 percent per annum from and after August 1, 1971, the effective date of Opinion No. 598, to the first day of the month in which payment is made.

In order to insure the orderly administration and review of the refunds to be made pursuant to this order, we shall require that all refunds made by working interest owners whose gas was sold under the rate schedule of another producer be coordinated with and reported by the producer under whose rate schedule the sale was made.

Once the refunds have been disbursed to the respective purchasers, the purchasers shall flow the refunds through to their jurisdictional customers; provided, however, that purchasers shall not be required to flow-through those refunds, if any, as to which they may assert a claim of entitlement under terms of prior rate settlement agreements approved by the Commission.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the refunds subject to this order be disbursed and flowed-through as hereinafter ordered.

The Commission orders: (A) On or before October 31, 1977, each producer who elected to discharge its refund obligations under Commission Opinion No. 598 through credits to be received for the dedication of new reserves and who has an outstanding refund obligation remaining on October 1, 1977, shall (1) file three copies of a final refund report showing for each rate schedule and each docket separately the amounts required to be refunded under Ordering Paragraph (E) of Opinion No. 598, as amended, and the 7 percent interest thereon from August 1, 1971, to the first day of the month in which payment is made; (2) disburse all of the refunds to the purchaser; and (3) file three copies of a release from the purchaser. In the alternative, a producer may advise the Commission and the purchaser on or before October 31, 1977, that it will exercise the option or options provided in sections 8.2.5 and/or 8.2.6 of the UDC settlement proposal approved in Opinion No. 598.

(B) All refunds and reports made pursuant to Ordering Paragraph (A) above shall be coordinated with and reported by the producer under whose rate schedule the sale was made.

(C) On or before November 29, 1977, each purchaser shall submit three copies of a plan for the flow-through of the refunds ordered to be disbursed by Southern Louisiana producers and presently being retained by the purchaser, applicable to jurisdictional sales, indicating the amount payable to each jurisdictional customer, the basis used to compute the amount payable, the periods involved, and the applicable docket numbers. Copies of the flow-through plans shall be served on each of the purchaser's jurisdictional customers and upon interested state regulatory commissions.

(D) Upon notification by the Secretary, and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

[1] Protests to the proposed rate increase were filed by the Port of Bremerton on August 8, 1977, and by the City of Dupont on August 29, 1977.

[2] See Section 1.34 of the Commission's Rules of Practice and Procedure, which requires a final decision or order before an application for rehearing can lie.

[1] The producers are also required to file their reserve dedication reports on or before October 1, 1977.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28972 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. RI77-13 et al.]

MESA OFFSHORE CO., ET AL.

Amended Petition for Special Relief

SEPTEMBER 26, 1977.

Take notice that on September 12, and 22, 1977, Mesa Offshore Co. (Mesa), Amarillo, Tex., filed in the captioned docket, an amended petition for special relief pursuant to section 2.56a(g) of the Commission's General Policy and Interpretations (18 CFR § 2.56a(g)). Mesa in its original petition, filed November 22, 1976, noticed March 29, 1977, requested a special relief rate of $3.07/Mcf for sales of its gas interests from Vermilion 228 and Eugene Island 256, offshore Louisiana to Sea Robin Pipeline Co. (Sea Robin).

In its present petition, Mesa asks an initial rate of $3.8869/Mcf for the sale of its gas. Mesa states that production experience since the date of its November 1976 filing has necessitated the revision of certain of the cost estimates under its petition.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28973 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-588]

THE WASHINGTON WATER POWER CO.

Proposed Tariff Change

SEPTEMBER 26, 1977.

Take notice that the Washington Power Co. of Spokane, Wash. (Water Power), on September 19, 1977, pursuant to section 205 of the Federal Power Act and Part 35 of the Commission's Regulations thereunder, tenders for filing a change in electric rates applicable to service being rendered to its wholesale customers under electric tariff Schedule 61. Water Power states that the proposed rate change is submitted for the purpose of compensating Water Power for increases in its cost of capital, labor, materials and supplies, and taxes.

Water Power further states that its current wholesale contract rates are deficient by some $514,000 annually based on sales volumes set forth in the statements accompanying its notice of change in rates. Water Power proposes an effective date of November 18, 1977.

Water Power indicates that copies of the filing have been served upon the five Water Power wholesale customers affected by the filing.

Any person desiring to be heard or to protest said notice should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 29426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before October 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Water Power's proposed tariff and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28974 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-548]

SOUTHERN CALIFORNIA EDISON CO.

Order Permitting Late Intervention

SEPTEMBER 27, 1977.

On August 10, 1977, Southern California Edison Co. (Edison) tendered for filing a Transmission Service Agreement with Pacific Gas & Electric Co. (PG&E) providing for the transmission by Edison on an interruptible basis of power purchased by PG&E from the Department of Water and Power of the City of Los Angeles. Notice of this filing was issued on August 17, 1977, with responses due on or before August 31, 1977.

On September 1, 1977, the People of the State of California and Public Utilities Commission of the State of California (California) filed a Notice of Intervention in support of the application in the docket herein.[1]

The Commission finds: Since participation by California will not delay the instant proceedings, good cause exists for accepting its late request to intervene as hereinafter ordered and conditioned.

[1] On August 24, 1977, PG&E filed a statement in support of application and conditional petition for leave to intervene.

The Commission orders: (A) California is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to the matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28976 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER76-543]

SOUTHWESTERN PUBLIC SERVICE CO.

Order Granting Intervention

SEPTEMBER 27, 1977.

The New Mexico Electric Service Co. of Hobbs, N. Mex., filed on August 29, 1977, a Petition to Intervene in the above-docketed proceeding now set for formal hearing.

Public notices of the original filing and its amendment in this proceeding were issued on March 8, 1976, and on March 23, 1977, respectively. New Mexico Electric's Petition to Intervene was filed decidedly out of time.

New Mexico Electric supports its Petition by stating that it is a party to the interconnection agreement entered into between Southwestern Public Service and itself. The filing here pertains to firm capacity sales made by Southwestern Public Service to New Mexico Electric, and unit capacity sales from New Mexico back to Southwestern.

Our order of July 25, 1977, in this docket accepted for filing and suspended for one day Southwestern's filing. A formal hearing was ordered with an initial conference to convene before a Presiding Administrative Law Judge on September 13, 1977, for further disposition of the case.

Since New Mexico Electric Service Co. is involved in the proceeding before us and is vitally concerned with its outcome, we believe it to be in the public interest to allow intervention notwithstanding that the Petition to Intervene was filed after the prescribed time.

The Commission finds: The participation by the New Mexico Electric Service

Co. in this proceeding may be in the public interest.

The Commission orders: (A) The New Mexico Electric Service Co. is hereby permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission; *Provided, however,* That participation by New Mexico Electric shall be limited to matters affecting certain rights and interests concerning the interconnection agreement which is involved in this above-docketed proceeding; and *Provided, further,* That the admission of New Mexico Electric shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28977 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. CP76-138]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

SEPTEMBER 27, 1977.

Take notice that on September 19, 1977, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP 76-138, a petition to amend the Commission's order of December 22, 1975 (54 FPC —), as amended February 7, 1977 (57 FPC —) issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), so as to provide for the transportation of natural gas for Cannon Mills Co. (Cannon) for an extended 2-year period, or through December 31, 1979, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of December 22, 1975, in this proceeding, Petitioner was authorized to transport, on an interruptible basis, for 2 years, up to 1,500 Mcf of natural gas per day at 15.025 psia to Public Service Company of North Carolina, Inc. (Public Service) for the account of Cannon Mills Co. (Cannon) for redelivery by Public Service for use by Cannon in its textile plants located at Kannapolis and Concord, N.C. It is stated that Cannon had arranged to purchase the gas to be transported from Franks Petroleum, Inc. (Franks) which would be produced in the Midland Field, Acadia Parish, La., and delivered to Petitioner at the tailgate of Continental Oil Co.'s Acadia Gas Processing Plant in Acadia Parish, La. It is indicated that pursuant to the Commission's order of February 7, 1977, in the instant docket, the order of December 22, 1975, was amended by authorizing Petitioner to add deliveries to an additional facility located in Maiden, N.C., which plant is owned by a subsidiary of Cannon, Maiden Knitting Mills, Inc., and is served from the total 1,500 Mcf per day previously authorized. It is stated that Petitioner was authorized to deliver 73 Mcf of natural gas per average day and 135 Mcf of natural gas per peak day to Piedmont Natural Gas Company (Piedmont) for redelivery to Cannon's Maiden facility.

Petitioner states that the transportation service for Cannon has been rendered pursuant to Rate Schedule X-81, on file with the Commission in Petitioner's FPC Gas Tariff, Original Volume No. 2, and that the transportation service is currently rendered at a rate of 29.8 cents per dekatherm. Petitioner also retains 3.8 percent of the volume transported for fuel and line loss, it is said.

Petitioner indicates that present authorization to transport gas for Cannon's account would expire December 31, 1977, and that Cannon's requirements for continuing deliveries of the transportation gas for Priority 2 process uses in its three plants would continue beyond the expiration date of the existing authorization. Petition further indicates that Cannon projects reduced level of service from its local supplier, Public Service and Piedmont for its three plants, and that this would result in economic hardships on employees and the communities in which the plants are located if there are layoffs and plant shutdowns because of curtailed gas service.

Cannon has continued assurance of a gas supply for its transportation service from the same supplier, Franks, which has been providing the gas for the presently authorized service, it is said. It is stated that the primary term of Cannon's gas purchase contract extends until December 31, 1977, with an additional year to take make-up gas.

Accordingly, Petitioner requests its authorization to transport gas for Cannon's account to be extended 2 years, or through December 31, 1979. No change in the quantity of transportation gas to be delivered, the end uses of such gas or delivery points is proposed, it is indicated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 11, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing there in must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28978 Filed 9-30-77;8:45 am]

[6740-02]

[Docket Nos. ER76-303 and ER76-393]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Granting in Part and Denying in Part Application for Rehearing and Granting Stay

SEPTEMBER 26, 1977.

On July 26, 1977, the Commission issued an Order Denying in Part and Granting in Part Petitions for Rehearing. In our order we affirmed our April 29, 1977 Order on Reconsideration in this proceeding, which determined that Wisconsin Michigan Power Co.'s (the Company's) service contracts with the Town of Florence, the City of New London and the City of Shawano (the Cities), all of Wisconsin, permit the Company to file unilateral rate increases, but that such increases may not surpass the rate level of the Company's large user (industrial) retail rate. The July 26 Order did however modify the ordering paragraph directing refunds, and on August 25, 1977, the Company filed an application for rehearing of the modification, together with a motion for stay of its refund obligation pending action thereon.

The rates at issue were filed by Wisconsin Michigan on November 28, 1975, in Docket No. ER76-303[1] and became effective March 1, 1976. Our April 29, 1977 Order on Reconsideration (April 29 Order) required the Company to refund (with interest) any amounts collected after March 1, 1976, which were above the level of the Company's "most recently approved large industrial retail rate on file with the Public Service Commission of Wisconsin" (mimeo p. 19).

In their application for rehearing of the April 29 Order, the Cities pointed out that the refund order was ambiguous as to which retail rate level was meant: That in effect when the wholesale rates were filed or that in effect as of the April 29 Order. The effective large user retail rate as of April 29, 1977 was one which had been approved by the Wisconsin Commission on August 16, 1976. This superseded the previous rate which had been in effect since November 25, 1975. In our rehearing order of July 26, 1977 (July 26 Order), we stated (mimeo p. 12):

[1] The application in Docket No. ER76-399, filed December 29, 1975, proposed revised rates for service to the Cities of Kaukauna and Menasha, Wis. The proceeding in Docket No. ER76-399 was consolidated with that in Docket No. ER76-303 by Commission order issued March 22, 1976.

As we held in our previous order, state approval of Wisconsin Michigan's industrial retail rate is the triggering event for the filing of a corresponding wholesale rate. We shall therefore amend finding paragraph (2) and ordering paragraph (B) of our Order on Reconsideration, issued April 29, 1977, to direct Wisconsin Michigan to file revised tariff sheets reflecting rates reduced to the level of the Company's industrial retail rate in effect as of November 28, 1975, and to make appropriate refunds (at 9 per cent per annum interest) of any amounts in excess thereof collected after March 1, 1976.

In its current application the Company argues that, assuming the large user retail rate does impose a ceiling on the wholesale rate (a holding which the Company disputes), then, by the terms of the Cities' contracts,[2] whenever an increased large industrial rate goes into effect, the wholesale customers' "automatic acceptance" of the higher industrial retail rate is triggered. The Company accordingly submits that it should be allowed to "apply both the industrial rate and the large industrial rate, as it is modified from time to time, to the Cities' billing determinants and to charge whichever produces the lesser amount" (Application, mimeo p. 5). In other words, Wisconsin Michigan wants the ceiling on its wholesale rates collected from the Cities after August 16, 1976, to be automatically raised to the level established by the industrial retail rate which went into effect on August 16, 1976.

The Company's request ignores entirely the exhaustive discussions underlying our findings in the April 29 and July 26 Orders.[3] In these Orders we clearly showed that, regardless of the contract language providing for "automatic acceptance" by the wholesale customers of increased large user retail rates, Wisconsin Michigan is required to file the proposed rates with this Commission for approval of such increase. We shall therefore deny the Company's request for an automatic adjustment of its wholesale rates to track changes in its large user retail trade.

Wisconsin Michigan objects to the refund provision of our July 26 order whereby a retail rate level which was superseded as of August 16, 1976, was imposed as the ceiling on the Company's wholesale rates collected not only between March 1 and August 16, 1976, but also after August 16, 1976. The Company points out that the Cities did not correctly press their contract rights until some seven months after the rates in Docket No. ER76-303 had been filed. The Commission ruling on the Cities' claims was moreover not forthcoming until April 1977. The Company argues that it could not know that it was foregoing just and reasonable wholesale revenues by failing to file a wholesale rate increase triggered by the Wisconsin Commission's subsequent retail rate order. Wisconsin Michigan believes the Commission should consider these facts in fashioning an equitable refund order and should not permit the Cities to reap greater refunds through tardy prosecution of their case.

We are persuaded that the Company's argument on rehearing has merit. Although it is true that all future wholesale rate increases must be preceded by a State-approved retail industrial rate as well as by a filing with this Commission, we believe it equitable to waive the latter requirement in this single instance. In view of the Cities' tardy prosecution of their contract rights, we shall not require Wisconsin Michigan to have made a second wholesale filing to track the August 16, 1976, increase in the industrial rate, which increase the filing in Docket No. ER76303 already covers.[4] An order granting refunds to bring the rate down to the effective parity rate will give the Cities all they bargained for under the contract.

For the above reasons, we shall grant that part of Wisconsin Michigan's application for rehearing of our July 26 Order which requests modification of the refund order. We shall amend the order to require the Company to refund that portion of its rates collected from New London and Shawano in Docket No. ER76-303 between March 1, 1976 and August 18, 1976, which is above the level of the Company's approved large user retail rate in effect on November 28, 1975, together with that portion of its rates collected after August 18, 1976, which is above the level of the Company's approved large user retail rate in effect as of August 16, 1976. We shall also grant the Company's motion for a stay of its refiling and refund obligation, but the period for refiling and making refunds will only be extended until 30 days from the date of issuance of this order.

The Commission finds: (1) Good cause exists to deny that part of Wisconsin Michigan Power Co.'s application for rehearing, filed August 25, 1977, which requests the ceiling on wholesale rates to track changes in the effective large industrial retail rate without filing the change with this Commission.

(2) Good cause exists to grant that part of Wisconsin Michigan Power Co.'s application for rehearing, filed August 25, 1977, which requests modification of the refund provision in our Order issued July 26, 1977, in this proceeding. Finding Paragraph (3) of the Order issued July 26, 1977, should be amended to read:

(3) It is proper and appropriate in the public interest that Wisconsin Michigan Power Co. be directed to: (1) eliminate from the rates which were collected from March 1, 1976 to August 18, 1976, in Docket No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975; and to (2) eliminate from the rates which were collected after August 18, 1976, in Docket No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

(3) Good cause exists to grant Wisconsin Michigan Power Co.'s motion for stay pending action on its application for rehearing, but only for 30 days beyond the issuance of this order.

The Commission orders: (A) That part of Wisconsin Michigan Power Co.'s application for rehearing which is described in Finding Paragraph (1), supra, is hereby denied.

(B) That part of Wisconsin Michigan Power Co.'s application for rehearing which requests modification of the refund provision is hereby granted, and Finding Paragraph (3) of the Order issued July 26, 1977, in this proceeding is hereby amended as set forth in Finding Paragraph (2), supra.

(C) Within 30 days of the date of issuance of this order, Wisconsin Michigan Power Co. shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 percent per annum interest of: (1) any amounts collected from March 1, 1976, to August 18, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975; and (2) any amounts collected after August 18, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

(D) Wisconsin Michigan Power Co. shall file a report with this Commission

[2] The contracts for the three Cities vary somewhat but effectuate the same result. Article III, Section 2 of the contract between the Company and New London, signed on June 21, 1949, states: "It is hereby agreed and understood that should there be any revision and/or change in said Rate VII approved by the Wisconsin Public Service Commission, at any time during the life of this contract, then the Distributor shall under this contract automatically receive and accept such revised rates." The comparable sections of the contracts with Florence and Shawano are set forth in the Order on Reconsideration, issued April 29, 1977, mimeo page 7.

[3] See mimeo pp. 8–10, 13–15 of our April 29 Order, wherein we stated, inter alia (mimeo p. 9): "The Examiner (and ultimately the Commission in Opinion No. 432, 31 FPC 1449) thus concluded that, under the terms of the subject contracts, state approval of the Company's large retail user rate is the triggering event for the filing of a corresponding wholesale rate. But although such wholesale filing obtains the automatic contractual acceptance of the customer, the filed wholesale rate must be found to be just and reasonable by the Federal Power Commission." See also mimeo pp. 2–5 of our July 26 Order.

[4] On May 25, 1977, we issued an order approving the settlement of Docket Nos. ER76-303 and ER76-399. The agreement did not resolve the contract interpretation issues, but rather reserved them for decision by the Commission and the courts. The settlement rates for New London and Shawano are above the rate levels, both before and after August 16, 1976, ordered herein.

attesting to its compliance with the refund obligations imposed in Ordering Paragraph (C), supra, within 15 days of such compliance. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28975 Filed 9-30-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

304 CORPORATION

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by 304 Corp., Omaha, Nebr. ("304"), which has transferred 100 per cent of the outstanding voting shares of Industrial Loan & Investment Co., Omaha, Nebr., to Industrial Loan Co., Omaha, Nebr. ("Industrial"), for a determination that 304 is not nor will be in fact capable of controlling Industrial or its president, Frank C. Meyo, notwithstanding the fact that both Industrial and Mr. Meyo are indebted to 304, which indebtedness resulted from the financing of the purchase of said shares.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 17, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, September 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29195 Filed 9-30-77;11:32 am]

[6820-14]

GENERAL SERVICES ADMINISTRATION

COST OF TRAVEL AND OPERATION OF PRIVATELY OWNED VEHICLES

Report; Correction

In FR Doc. 77-26942 appearing at page 46087 in the issue of Wednesday, September 14, 1977, the first sentence of paragraph 1 under the heading Addendum to the Report on the Cost of Travel and the Operation of Privately Owned Vehicles is corrected in the third line of that paragraph by replacing the word "beginning" with the word "performed." The revised sentence reads as follows:

The changes to mileage and travel allowances reflected in the preceding report are effective for travel performed on or after September 18, 1977.

Dated: September 28, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-29062 Filed 9-30-77;8:45 am]

[4110-16]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

SCHEDULE OF LIMITS UNDER THE HEALTH INSURANCE PROGRAM FOR COST-REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1977

On August 12, 1977, the Department published in the FEDERAL REGISTER (42 FR 40948) a Notice of Proposed Schedule of Limits on Hospital Inpatient General Routine Service Costs for Hospitals with Cost Reporting Periods Beginning on or After October 1, 1977. Section 1861(v)(1) of the Social Security Act, as amended, 42 U.S.C. 1395x(v)(1) authorizes the Secretary of Health, Education, and Welfare to set prospective limits on costs recognized as reasonable and applied to direct or indirect overall incurred costs of specific items or services or groups of items or services furnished by a provider. Such limits are based on estimates of the costs necessary in the efficient delivery of needed health services. This Schedule of Limits, initially proposed by publication in the FEDERAL REGISTER on August 12, 1977 (42 FR 40948), provides a new Schedule of Limits on Hospital Inpatient General Routine Service Costs to succeed the Schedule in effect for cost reporting periods beginning on or after July 1, 1977, as published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35496) and is applicable to cost reporting periods beginning on or after October 1, 1977, and until such Schedule is revised.

The Schedule applies to the total of the cost of hospital inpatient general routine service costs. These limits do not apply to the cost of special care units or ancillary services.

The Secretary of Health, Education, and Welfare is strongly committed to a national policy of containing the rapidly escalating health care costs. Therefore, the Secretary hereby serves notice of his intention to review these limits from time to time and make such changes in the limits as circumstances may warrant to assure that costs which are reimbursed are reasonable. Any such changes will be prospective in nature but will apply to all hospital inpatient general routine service costs incurred after the effective date of the changes. In addition, the limits contained in this schedule will be revised to conform with any Federal cost containment legislation enacted subsequent to the effective date of this schedule.

The initial classification system, which is described in the FEDERAL REGISTER (39 FR 20168) published June 6, 1974, was developed to provide for comparison of hospitals of similar size and in similar economic environments. Several refinements of the initial classification system were made effective July 1, 1975, and are described in the FEDERAL REGISTER (40 FR 23622) published May 30, 1975.

An additional refinement was made in the revised schedule of limits effective July 1, 1976. The refinement was the result of changes in the size of units of economic environment, and is described in the FEDERAL REGISTER (41 FR 26992) published June 30, 1976.

A refinement was made in the revised schedule of limits published in the FEDERAL REGISTER (42 FR 35496) on July 8, 1977. This limited refinement arose from the definition of metropolitan environments in the New England area. Under the Office of Management and Budget (OMB) definition, which has been used to distinguish between metropolitan and nonmetropolitan areas, Standard Metropolitan Statistical Areas (SMSA's) and Standard Consolidated Statistical Area (SCSA's) in New England are based on cities and towns rather than on counties, as is the case in the rest of the United States. Because towns and cities are used to delineate SMSA's and SCSA's in New England, a county may be part of more than one SMSA or only a part of a county may be in an SMSA. However, income data supplied by the Department of Commerce, Bureau of Economic Analysis (BEA), which are used to group various areas according to economic environment, are available only on a county basis. In order to use the available data, BEA has slightly changed SMSA defini-

tions in New England so that the SMSA's follow county lines.

Therefore, a hospital located in the part of the county not included by OMB in the SMSA/SCSA would be subject to a nonmetropolitan limit even though the per capita income of the hosiptal's location had been used for SMSA/SCSA classification grouping purposes. This situation is limited to New England and is inconsistent with the classification grouping for the rest of the United States where the OMB and BEA definitions of SMSA's consistently follow county lines.

In order to rectify this inconsistency, there is a change in the description of metropolitan environment used in the classification system. The change would alter the requirements for metropolitan status and would deem an entire county to be within an SMSA/SCSA if any part of such county was included by OMB in the SMSA/SCSA. Where a county contains the major city of an SMSA and is considered by OMB to be part of two or more SMSA's, the entire county would be demed to be part of the SMSA whose major city it encompasses. Where a county is considered by OMB to be part of two or more SMSA's and does not contain the major city of any SMSA, the county would be included in the SMSA having the highest per capita income. An SMSA's major city is defined as the city from which the SMSA takes its name. Where the application of this provision results in a provider being placed in a group with a limit lower than the limit to which it would have been subject without the change, the higher limit may be applied in the cost reporting period to which this schedule applies.

An additional refinement made in the revised schedule of limits effective July 1, 1977, for nonmetropolitan areas is incorporated in the revised schedule set forth below.

In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitve to changes in economic conditions from one year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. In order to provide more equitable treatment to nonmetropolitan areas, a change has been made that would base the classification of State nonmetropolitan areas on a 5-year per capita average income instead of a one year base period. In these areas the longer base would be more reflective of the economic environment than a single year's income.

The same change was considered for the metropolitan (SMSA/SCSA) areas. However, these areas do not exhibit the same volatility of per capita income from one year to the next as do the non-SMSA areas. This may be attributed to diversity in economic activity in the SMSA areas plus the additional benefits, such as supplemental unemployment compensation, which are available to the mostly unionized workers in these areas. Therefore no change was made in the classification system for SMSA/SCSA areas.

The revised Schedule of Limits retains the provision to protect metropolitan area providers for the period in which this schedule is in effect from the effects of lower limits that might result from circumstances that result in a lower per capita income for the provider's area. Thus if a metropolitan area's per capita income in a year or a change in SMSA/SCSA designation during the year, places the area in a group lower than in the previous year, the limit to be applied for that year will be the higher of the current period group or the immediately preceding year group. This provision will lessen the effect of unusual short-term fluctuations in area per capita income on reimbursement to individual providers.

For the period in which this schedule is in effect the same provision will be applied to nonmetropolitan providers which have been placed in a lower group as a result of the new classification methodology. SMSA and non-SMSA areas that are affected by this provision are indicated in the ilst of groups by a footnote after the area name.

Example. Hospital A, Bed size: 150. Per capita income in the providers' SM SA during the period on which the classification is based was reduced because of the effects of a natural disaster. Provider A had been classified in Group II effective October 1, 1976, and is now classified in Group III beginning October 1, 1977. The limit to be applied to Provider A beginning October 1, 1977, is the higher of the Group II limit or the Group III limit.

Interested parties were given 30 days from the date of publication of the proposed schedule of limits within which to submit data, views, and arguments. Comments and suggestions received with regard to that notice of proposed Schedule of Limits, responses thereto, and changes made in the proposed schedule of limits are summarized below.

5-Year Per Capita Income Averaging

1. Some comments questioned the use of a 5-year per capita average income for nonmetropolitan areas only. In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitive to changes in economic conditions from 1 year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. Therefore, in order to provide a more equitable treatment to nonmetropolitan areas, the classification of State nonmetropolitan areas is based on a 5-year per capita average income instead of a 1 year base period. The same concept was considered for metropolitan areas. However, SMSA per capita income does not exhibit the same relative fluctuations as non-SMSA income. Therefore, it was not necessary to make the same changes for metropolitan areas.

County Basis for Classifying New England Area Hospitals

2. Several comments centered upon the use of counties rather than SMSA/SCSAs in the New England area and why the provision was not made retroactive. Careful consideration was given to the impact of such a provision prior to its inclusion in the proposed schedule. Because the SMSA/SCSA definition did not match each hospital's location in the New England area with the income data used to classify areas, the county basis was chosen for classifying hospitals in the New England area as county location coincides with income data. We carefully considered the possibility of retroactive application of this refinement and have determined that such retroactive application would be inappropriate since some providers could be adversely affected by this change.

Source of Per Capita Income Data

3. In response to comments concerning the source of per capita income data, used to group SMSA/SCSAs and Non-SMSA/SCSAs, the data utilized are from Local Area Personal Income 1969–1974, June 1976, Volume 1, Summary, Published by the United States Department of Commerce, Bureau of Economic Analysis.

Source of SMSA/SCSA Areas

4. Inquiry was made about the source of the definitions of Standard Metropolitan Statistical Areas and Standard Consolidated Statistical Areas. Except as modified by this notice for the New England area, the SMSA/SCSA titles conform to the definitions used by the Office of Management and Budget in its publication Standard Metropolitan Statistical Areas 1975, revised edition.

Duplicative Comments

5. A number of comments which were received duplicated comments made prior to publication of the previous sets of limits. A discussion of these items can be found in the Federal Register (41 FR 26992) published June 30, 1976, the Federal Register (40 FR 23622) published May 30, 1975, and the Federal Register (39 FR 20168) published June 6, 1974.

6. Various editorial changes have been made in the interest of clarity.

All SMSA's and SCSA's have been divided into the following five groups based on per capita income. Counties, rather than SMSA/SCSA areas, are listed for New England States.

SMSA/SCSA Group I

ALASKA

Anchorage.

CALIFORNIA

Los Angeles-Long Beach-Anaheim (SCSA).

Los Angeles-Long Beach, Anaheim-Santa Ana-Garden Grove, Oxnard-Simi Valley-Ventura, Riverside-San Bernardino-Ontario, Salinas-Seaside-Monterey.

San Francisco-Oakland-San Jose (SCSA).
San Francisco-Oakland, San Jose, Vallejo-Fairfield-Napa.

COLORADO

Denver-Boulder.

CONNECTICUT

Fairfield County, Hartford County, Litchfield County, Middlesex County, Tolland County.

DISTRICT OF COLUMBIA

Washington, DC, DC–MD–VA.

FLORIDA

Miami-Fort Lauderdale (SCSA)
Fort Lauderdale-Hollywood, Miami, Sarasota, West Palm Beach-Boca Raton.

ILLINOIS

Chicago-Gary, IL–IN (SCSA)
Chicago, IL, Gary-Hammond-East Chicago, IN, Peoria, Springfield.

IOWA

Davenport-Rock Island-Moline, IA–IL.

MICHIGAN

Detroit-Ann Arbor (SCSA)
Detroit, Ann Arbor.

MINNESOTA

Minneapolis-St. Paul, MN–WI.

NEVADA

Reno.

NEW JERSEY

See New York SCSA.

NEW YORK

New York-Newark-Jersey City, NY–NJ–CT (SCSA)
New York, NY–NJ, Newark, NJ, Jersey City, NJ, Paterson-Clifton-Passaic, NJ, Nassau-Suffolk, NY, Long Branch-Asbury Park, NJ, New Brunswick-Perth Amboy-Sayerville, NJ, Rochester.

OHIO

Cleveland-Akron-Lorain, (SCSA).
Cleveland, Akron, Lorain-Elyria.

VIRGINIA

Richmond.

WASHINGTON

Richard-Kennewick.

WISCONSIN

Milwaukee–Racine (SCSA)
Milwaukee, Racine, Kenosha.

SMSA/SCSA GROUP II

ARIZONA

Phoenix.

CALIFORNIA

Bakersfield, Santa Barbara-Santa Maria-Lompoc, San Diego, Stockton.

CONNECTICUT

New Haven County, New London County.

DELAWARE

See Philadelphia SCSA.

GEORGIA

Atlanta.

HAWAII

Honolulu.

IDAHO

Boise City.

ILLINOIS

Bloomington-Normal, Decatur, Kankakee, Rockford.[1]

INDIANA

Fort Wayne, Indianapolis.

IOWA

Cedar Rapids, Des Moines, Waterloo-Cedar Falls.

KANSAS

Topeka, Wichita.

KENTUCKY

Louisville, KY–IN.

MARYLAND

Baltimore.

MASSACHUSETTS

Berkshire County, Essex County,[1] Middlesex County,[1] Norfolk County,[1] Plymouth County,[1] Suffolk County,[1] Worcester County.

MICHIGAN

Flint,[1] Grand Rapids, Jackson, Kalamazoo-Portage, Saginaw.

MISSOURI

Kansas City, MO–KS, St. Louis, MO–IL.

NEBRASKA

Lincoln.

NEW HAMPSHIRE

Rockingham County.

NEW JERSEY

See Philadelphia SCSA.

NEVADA

Las Vegas.[1]

NEW YORK

Albany-Schenectady-Troy, Buffalo, Poughkeepsie.

NORTH CAROLINA

Greensboro-Winston-Salem-High Point.

NORTH DAKOTA

Fargo-Moorehead,[1] ND–MN.

OHIO

Dayton, Lima, Toledo, OH–MI, Youngstown-Warren.

OREGON

Portland, OR–WA.

PENNSYLVANIA

Philadelphia-Wilmington-Trenton, PA-DE MD-NJ (SCSA)
Philadelphia, PA–NJ, Trenton, NJ, Wilmington, DE–NJ–MD, Allentown, Bethlehem-Easton, PA–NJ, Harrisburg, Lancaster, Pittsburgh, Reading.

RHODE ISLAND

Washington County.

TEXAS

Houston-Galveston (SCSA)
Houston, Galveston-Texas City, Dallas-Fort Worth, Midland.

WASHINGTON

Seattle-Tacoma, (SCSA)
Seattle-Everett, Tacoma.

WISCONSIN

Madison.

SMSA/SCSA GROUP III

ALABAMA

Birmingham.

ARIZONA

Tucson.

ARKANSAS

Little Rock-North Little Rock.

CALIFORNIA

Fresno, Modesto, Sacramento, Santa Cruz, Santa Rosa.

COLORADO

Greeley.

FLORIDA

Jacksonville, Orlando, Tampa-St. Petersburg.

ILLINOIS

Champaign-Urbana-Rantoul.

INDIANA

Anderson,[1] Evansvell, IN–KY, South Bend.[1]

IOWA

Dubuque, Sioux City, IA–NE.

KENTUCKY

Lexington-Fayette.

LOUISIANA

New Orleans.

MAINE

Cumberland County, York County.

MASSACHUSETTS

Hampden County, Hampshire County.

MICHIGAN

Battle Creek,[1] Bay City, Lansing-East Lansing.[1]

MINNESOTA

Rochester.[1]

MISSISSIPPI

Jackson.

MONTANA

Billings.

NEBRASKA

Omaha, NE–IA.

NEW HAMPSHIRE

Hillsborough County, Merrimack County.

NEW JERSEY

Atlantic City, Vineland-Millville-Bridgeton.

NEW YORK

Binghamton, NY–PA, Elmira, Syracuse.

NORTH CAROLINA

Charlotte-Gastonia, Raleigh-Durham.

OHIO

Cincinnati-Hamilton, OH–KY–IN (SCSA)
Cincinnati, OH–KY–IN, Hamilton-Middleton, OH,[1] Canton, Columbus, Mansfield, Springfield.
Steubenville-Weirton, OH–WV.

OKLAHOMA

Tulsa.

OREGON

Salem.

PENNSYLVANIA

Erie, York.

RHODE ISLAND

Bristol County, Kent County, Newport County, Providence County.

SOUTH DAKOTA

Sioux Falls.

TENNESSEE

Memphis, TN–AR–MS, Nashville-Davidson.

TEXAS

Amarillo, Beaumont-Port Arthur-Orange, Wichita Falls.

VIRGINIA

Newport News-Hampton, Norfolk-Virginia Beach-Portsmouth, VA–NC, Petersburg-Colonial Heights-Hopewell, Roanoke.

WASHINGTON

Spokane, Yakima.

WEST VIRGINIA

Charleston.

WISCONSIN

Appleton-Oshkosh.

SMSA/SCSA GROUP IV

ALABAMA

Montgomery.

COLORADO

Colorado Springs, Fort Collins, Pueblo.

FLORIDA

Daytona Beach, Fort Meyers, Gainesville, Lakeland-Winter Haven, Melbourne-Titusville-Cocoa, Tallahassee.

GEORGIA

Augusta, GA–SC, Columbus, GA–ALA, Macon, Savannah.

INDIANA

Lafayette-West Lafayette,[1] Muncie.

KENTUCKY

Owensboro.

LOUISIANA

Baton Rouge, Shreveport.

MASSACHUSETTS

Bristol County.

MICHIGAN

Muskegon, Norton Shores, Muskegon Heights.

MINNESOTA

Duluth-Superior, MN–WI.

MISSOURI

St. Joseph.[1]

MONTANA

Great Falls.[1]

NEW MEXICO

Albuquerque.

NEW YORK

Utica-Rome.

NORTH CAROLINA

Asheville, Burlington.

OKLAHOMA

Oklahoma City.

OREGON

Eugene-Springfield.

PENNSYLVANIA

Johnstown, Wilkes Barre-Scranton-Hazleton (Northeast PA), Williamsport.

SOUTH CAROLINA

Columbia, Greenville-Spartanburg.

TENNESSEE

Chattanooga, TN-GA, Clarkville-Hopkinsville, TN–KY, Knoxville.

TEXAS

Abilene, Austin, Killeen-Temple, Longview, Lubbock, Odessa, San Angelo, San Antonio, Sherman-Denison, Tyler Waco.

UTAH

Salt Lake City-Ogden

VIRGINIA

Lynchburg.

WEST VIRGINIA

Parkersburg-Marietta, WV–OH, Wheeling, WV–OH.

WISCONSIN

Green Bay, La Crosse.

SMSA/SCSA Group V

ALABAMA

Anniston, Florence, Gadsden, Huntsville, Mobile, Tuscaloosa.

ARKANSAS

Fayetteville-Springdale, Fort Smith, AR–OK, Pine Bluff.

FLORIDA

Pensacola.

GEORGIA

Albany.

INDIANA

Bloomington, Terra Haute.[1]

LOUISIANA

Alexandria, Lafayette, Lake Charles, Monroe.

MAINE

Androscoggin County.

MINNESOTA

St. Cloud.

MISSOURI

Columbia, Springfield.[1]

MISSISSIPPI

Biloxi-Gulfport, Pascagoula-Moss Point.

NORTH CAROLINA

Fayetteville, Wilmington.

OKLAHOMA

Lawton.

PENNSYLVANIA

Altoona.

PUERTO RICO

Caguas, Mayaguez, Ponce, San Juan.

SOUTH CAROLINA

Charleston-North Charleston.

TENNESSEE

Johnson City-Kingsport-Bristol, TN–VA.

TEXAS

Brownsville-Harlingen-San Benito, Bryan-College Station, Corpus Christi, El Paso, Laredo, McAllen-Pharr-Edinburg, Texarkana, TX–AR.

UTAH

Provo-Orem.

WEST VIRGINIA

Huntington-Ashland, WV–KY–OH.

WISCONSIN

Eau Claire.

Non-SMSA areas will be classified according to the per capita income of all non-SMSA counties within a State. The following are the five income groupings, (with States classified according to a 5-year per capita income average) to be used for hospitals located in non-Standard Metropolitan Statistical Areas in those States.

NON-SMSA

GROUP I

Alaska	Nevada
Iowa	New Jersey
Kansas	Washington
Massachusetts	Wyoming
Nebraska	

GROUP II

California	Illinois[2]
Connecticut	Indiana
Delaware	Maryland
Hawaii	North Dakota[2]

GROUP III

Colorado	New York
Florida	Ohio
Idaho	Oregon
Michigan	Pennsylvania
Minnesota[2]	South Dakota[2]
Montana	Vermont
New Hampshire	Wisconsin

GROUP IV

Arizona	North Carolina
Maine	Oklahoma[2]
Missouri[2]	Texas

GROUP V

Alabama	Puerto Rico
Arkansas[2]	South Carolina
Georgia	Tennessee
Kentucky	Utah
Louisiana	Virginia[2]
Mississippi	Virgin Islands
New Mexico	West Virginia

With respect to the Standard Consolidated Statistical Area/Standard Metropolitan Statistical Area groupings, the groupings were developed by combining those SCSA/SMSA's which reflect a similar economic environment as expressed by per capita income data. The SCSA/SMSA's were arrayed in order of the size of their per capita income and groupings were established. The same procedure was followed for grouping the non-SCSA/SMSA areas to arrive at State groups.

The following bed-size categories are used to classify hospitals:

STANDARD METROPOLITAN STATISTICAL AREAS

GROUPS I AND II

Less than 100.
100–404.
405–684.
685 and above.

GROUPS III, IV, AND V

Less than 100.
100–404.
405 and above.

NON-STANDARD METROPOLITAN STATISTICAL AREAS

Less than 100.
100–169.
170 and above.

The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.

2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.

3. The 80th percentile and the median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.

5. This sum was adjusted to reflect the 14 percent annual rate of estimated cost increases in per diem routine service costs following the date of data collection.

6. The amounts calculated in step 5 are rounded to the next highest dollar

[1] Hospitals in areas (SCSA or SMSA) identified by a figure one will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.

[2] Hospitals in States identified by a figure two will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.

which establishes the limit for each class, subject to adjustment for hospitals reporting on other than a reporting period beginning July 1, 1977.

Under the authority of section 1861(v) of the Social Security Act, the following cost limitations apply to the total of the hospital inpatient general routine service costs (excluding costs incurred for special care units and ancillary services), adjusted upward as provided for below. The limits are applicable to cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of a revised schedule.

The limits are applicable to any hospital with a cost reporting period beginning on or after October 1, 1977. Where a hospital has a cost reporting period beginning after July 1, 1977, the published limit will be adjusted upward by a factor of 1.17 percent for each elapsed month between July 1, 1977, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example.—Hospital A's cost reporting period starting in 1977 begins October 1, 1977, and ends September 30, 1978. The cost factor for Hospital A's group from the table below is $100.

COMPUTATION OF ADJUSTED COST LIMIT

Cost factor	$100.00
Plus: Adjustment for 3-month period (July 1, 1977, to Sept. 30, 1977), 3 months × 1.17 pct. = 3.51 pct.; 3.52 pct. × cost factor	3.51
Adjusted cost limit applicable to hospital A for the Oct. 1, 1977, to Sept. 30, 1978, reporting period	$103.51

SCHEDULE OF LIMITS ON HOSPITAL INPATIENT GENERAL ROUTINE SERVICE COSTS FOR HOSPITALS WITH COST-REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1977 (A)

(A) The schedule of limits and adjustment factor are only for a 12-month cost reporting period. For providers with other than 12-month cost reporting periods, intermediaries must contact the Health Care Financing Administration for adjustment factor.

Hospitals located within SMSA's (metropolitan) bed size

SMSA group	Less than 100	100 to 404	405 to 684	685 and above
I[1]	$139	$144	$160	$211
II	121	123	126	151
III	109	110	109	109
IV	100	105	108	103
V	89	87	109	109

[1] Limits apply to all SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment (25 pct. Anchorage, Alaska; 17.5 pct. Honolulu, Hawaii) was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 684	685 and above
Anchorage	$174	$180	$200	$264
Honolulu	164	170	188	248

Hospitals located within SMSA's (nonmetropolitan) bed size

State group	Less than 100	100 to 169	170 and above
I[2]	$103	$114	$112
II[3]	119	114	107
III	100	105	103
IV	92	89	91
V	84	83	84

[2] Limits apply to all Group I States except Alaska where cost of living adjustment (25 pct.) was made, limits for Alaska are:

Less than 100	$129
100 to 169	125
170 and above	149

[3] Applies to all Group II States except Hawaii where cost of living adjustment (12.5 pct.) was made, limits for Hawaii are:

Less than 100	$134
100 to 169	129
170 and above	121

FOR FURTHER INFORMATION, CONTACT:

Mrs. Virginia K. Gray, Health Care Financing Administration, Medicare Bureau, 6401 Security Boulevard, Baltimore, Md. 21235, Director, Division of Provider Reimbursement and Accounting Policy (301-594-9690).

(Secs. 1102, 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647, as amended; 79 Stat. 322, as amended; 79 Stat. 327, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395x(v), 1395cc(a), and 1395hh.)

Effective date. The Schedule of Limits will be effective for cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of any revised schedule which may be published.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Dated: September 27, 1977.

ROBERT A. DERZON,
Health Care Financing Administration.

Approved: September 29, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc.77-29159 Filed 9-29-77;4:33 pm]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20187; 70-4537]

Public Utility Holding Company Act of 1935

NORTHEAST UTILITIES, ET AL.

Post-Effective Amendment Requesting Extension of Time for the Issuance and Sale of Notes to Holding Company

SEPTEMBER 23, 1977.

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, the Rocky River Realty Co. ("Rocky River"), its nonutility subsidiary, and the Connecticut Light & Power Co., an electric utility subsidiary company of Northeast, have filed with this Commission a fourth post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated October 24, 1967 (HCAR No. 15334), Rocky River was authorized to engage in the business of acquiring, maintaining, and disposing of real property in connection with the utility operations of the operating companies of the Northeast holding-company system. Said order of October 24, 1967, as amended by supplemental orders of the Commission dated December 21, 1970, and October 27, 1972 (HCAR Nos. 16941 and 17740) also authorized Rocky River to issue and sell to Northeast until October 24, 1977, and Northeast was authorized to acquire, up to $10,000,000 aggregate principal amount of Rocky River's long-term unsecured notes ("Notes") to finance such real estate activities. It was provided that, since Rocky River's capital requirements vary from time to time, Rocky River could in its discretion pay out of capital Notes theretofore issued and thereafter issue and sell to Northeast, and Northeast could acquire, additional Notes in adjusting the amount of Notes outstanding to Rocky River's capital requirements.

By post-effective amendment, it is now proposed that the authorization regarding said Notes be extended for a five-year period expiring October 24, 1982.

The fees and expenses to be incurred in connection with the proposed extension are estimated ta $2,500. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 20, 1977, request in writing that a hearing be held with respect to said post-effective amendment to the application-declaration, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further

amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-28904 Filed 9-30-77: 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Bureau Order No. 701, Amdt. No. 26]

LAND AND RESOURCES

Redelegation of Authority

Bureau Order No. 701 dated July 23, 1964, is further amended as follows:

PART I—REDELEGATIONS OF AUTHORITY TO STATE DIRECTORS

1. Section 1.7(f) is amended to read:

Section 1.7 Range Management.

* * * * *

(f) *Protection of wild free-roaming horses and burros.*

Take all actions under the Act of December 15, 1971 (65 Stat. 649; 16 U.S.C. 1331-1340 as amended by the Federal Land Policy and Management Act of 1976) except (1) the designation and maintenance of specific ranges on public lands as provided in section 3(a), and (2) the arrest provisions in section 8(b).

2. A new subparagraph (8) is added to section 1.9(t) as follows:

Section 1.9 Land Use.

* * * * *

(t) *Matters pertaining to Alaska.*

* * * * *

(8) National Petroleum Reserve in Alaska. Take all actions under the Naval Petroleum Reserve Protection Act of 1976 (90 Stat. 303; 43 U.S.C. 6501) involving surface management of the National Petroleum Reserve in Alaska, including the protection of surface values from environmental degradation, except (1) submission of plans to the Committees on Interior and Insular Affairs of the Senate and House of Representatives or annual reports required by section 104(d) of the Act, (2) establishment of a task force or the submission of a report pursuant to section 105(c) of the Act, and (3) enforcement of regulations and stipulations which relate to the exploration of petroleum resources.

GEORGE L. TURCOTT,
Acting Director.

SEPTEMBER 23, 1977.

[FR Doc.77-29036 Filed 9-30-77;8:45 am]

[4310-55]

Fish and Wildlife Service

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Arlan R. Vaughn, 375 Midnight, Pueblo, Colo. 81005.

OMB NO. 42-R1673

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To ship and receive CSSP pheasants in interstate commerce in the course of a commercial activity for propagation purposes to enhance the survival of these species.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Arlan R. Vaughn
375 Midnight
Pueblo, Colorado 81005
303-561-1569

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5'10"	WEIGHT 210lbs.
DATE OF BIRTH 7-1-38	COLOR HAIR Blond	COLOR EYES Brown.
PHONE NUMBER WHERE EMPLOYED 544-5147	SOCIAL SECURITY NUMBER 521-48-7703	
OCCUPATION Railroad Trainman		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
NONE

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NOT APPLICABLE

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
NOT APPLICABLE

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
NOT APPLICABLE

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipments to and from 375 Midnight, Pueblo, Colorado 81005

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(*If yes, list license or permit numbers*)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
Colorado State Park License

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NOT APPLICABLE

10. DESIRED EFFECTIVE DATE
10-1-77

11. DURATION NEEDED.
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Arlan R Vaughn — DATE 8-24-77

3-200
(6/74)

1. Pheasant: Brown-eared, *Crossoptilon mantchuricum*. Pheasant: Edward's *Lophura edwardsi*. Pheasant: bartailed *Syrmaticus humiae*. Pheasant: Mikado, *Syrmaticus mikado*. Pheasant: Palawan peacock, *Polyplectron emphanum*. Pleasant: Swinhoe's *Lophura swinhoii*. A CSSP Permit is needed to conduct interstate commerce for the duration of the 2 year permit.

2. All pens are at least 8' x 24' long and 7' high. All have shelters at least 8' x 8' constructed of galvanized iron and bottoms of runs also with galvanized iron buried 8 to 9 inches. Wire is 1" poultry netting. Each pen is equipped with good perches, hanging self-feeders and water dishes. Tropical species are housed in pens of the same above dimensions and have an insulated shelter with two windows and a door of which each shelter has a thermostat controlled wall heater. The perimeter is fenced with a 6' high solid wood fence buried at least 1' for greater protection. See enclosed pictures of pens and shelters.

3. Arlan R. Vaughn and Lorotta J. Vaughn have both successfully propagated and raised over 25 species of pheasants in the past 9 years, including all of the CSSP species listed under attachment No. 1.

4. I am willing to participate in a cooperative breeding program and maintain or contribute data on a stud book.

5. Boxes are constructed of light weight panelling approximately 5" wide by 15" high by 20" long. Each box top is padded with foam rubber and contains a bed of alfalfa leaves with grain, fruit and lettuce leaves. Tied into place in a corner is a can which contains water. Each box has sufficient air holes on all sides. Each box is constructed

for each bird so size can vary depending on the size of the bird to be shipped.

6. No Mortalities in the last 5 years.

7. This applicant should be justified because: (i) To help Establish & Preserve these species in Captivity, and in Their Pure Forms. For proper propagation methods new birds are needed from time to time so as not to become inbred.

(ii) Excess stock will be sold to other established breeders and zoos that meet the requirements for their propagation. Termination of this activity is not planned at any time but birds to be disposed of would go only to established breeders of zoos for propagation thereof.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1398-25; please refer to this number when submitting comments. All relevant comments received on or before November 2, 1977 will be considered.

Dated: September 27, 1977.

LARRY LAROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-28917 Filed 9-30-77;8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Lee W. Wolcott, 24 North Pearl Street, Oakfield, N.Y. 14125.

OMB NO. 42-R127

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Check one*)
☐ IMPORT OR EXPORT LICENSE ☐ CSSP ☐ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Propagating certain species of avian wildlife, classified as endangered or threatened wildlife and to sell or trade and also bring such birds further purpose of enchaning the survival of these species.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
L...W. Wolcott
42 N. Pearl Street
Oakfield, New York.
14125

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5' 10"	WEIGHT 170
DATE OF BIRTH March 30, 1941	COLOR HAIR Brown	COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
OCCUPATION Farming		

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE AND KIND OF BUSINESS, AGENCY, OR INSTITUTION
N.A.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
N.A.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
N.A.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
42 North Pearl Street
Oakfield, New York
14125

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL, FISH AND WILDLIFE LICENSE OR PERMIT ☐ YES ☒ NO
(*If yes, list license or permit numbers*)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(*If yes, list jurisdictions and type of documents*)

9. CERTIFIED CHECK OR MONEY ORDER (*If applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N.A.

10. DESIRED EFFECTIVE DATE A.S.A.P.

11. DURATION NEEDED 2 Years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.11*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

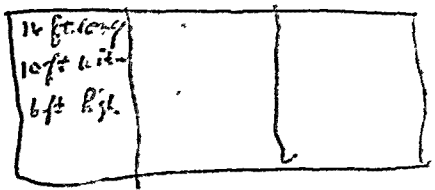
SIGNATURE (*In ink*) Lee W. Wolcott — DATE 9/6/77

ATTACHMENTS FOR QUESTION 12 ON FORM 3-200

1. Species—Brown Eared Crossoptilon Mantchurcum, Elliots *Syrmetieus elliott*, Humes Bar tailed *Syrmatieus humid-humiae*, Mikodo *Syrmaties mikado*, Swinhoe *Lophura swinhoe*.

Be able to sell or buy the above breeds within the United States.

2. Pens consist of welded wire 16 ft. wide 10 ft. long 6 ft. high with plenty of shade trees.



2 rows of above pens consisting of 7 pens on each side.

3. I have raised pheasants for the past 12 years and do most of the caring myself, but when leave for certain reasons a college graduate cares for them.

4. I as applicate will keep and maintain a breeding program and stud book.

5. Transportation and temporary storage are boxes made from orange crates (wood) 303 in. long, 12 in. high, two plastic cups put in crates when birds are shipped one in each corner for water feed.

6. Mortalities are very low, in past five years, two birds, Brown eared pheasant with hardware disease and Elliott died when flew into fence and broke neck. Use best medicine on the market for prevention.

7. (1) The activities sought by the applicant is to enhance the survival of the endangered or threatened species and that these species always are available.

(2) Disposition, at present have no plans for disposing, but upon demand would dispose birds to other breeders with permit, so that their survival will be continued.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1093-25; please refer to this number when submitting comments. All relevant comments received on or before November 2, 1977 will be considered.

Dated: September 27, 1977.

LARRY LA ROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-28918 Filed 9-30-77;8:45 am]

[4310-70]

National Park Service

CLARIFICATION OF APPEALS PROCEDURES

In a recent rulemaking notice (42 FR 30501, June 15, 1977), the National Park

Service briefly discussed appeal procedures for administrative decisions made by its officials. This rulemaking dealt with permit requirements for the sale or distribution of printed matter in park areas. One commenter had, in response to the proposed regulation, requested that an appeals procedure be included in the regualtion. In response to this comment, the National Park Service stated that appeals from all administrative decisions of park Superintendents could be made to the Regional Director, the Director, and the Secretary of the Interior, successively.

Upon a review of this discussion, the National Park Service has determined that the information which was given is misleading and partially incorrect. It is the purpose of this notice, therefore, to clarify the general appeals procedures of the National Park Service.

The discussion mentioned above confused complaint procedures, wherein a person or other entity who is concerned with a governmental action will normally contact successively higher levels of an agency, with formal appeals procedures established to deal with specific processes. Except for those matters in which a right of appeal is stated in a regulation or law, there is no general right of appeal from decisions which a National Park Service official has been granted discretionary authority to make. This position is compatible with Department of the Interior regulations on appeals procedures, which specifically exempt from Departmental appeal those situations when:

"* * * the action of the Departmental official was based solely upon administrative or discretionary authority of such official." (43 CFR § 4.700).

Notwithstanding this limitation on formal appeals, decisions made by park Superintendents may be reviewed by appropriate Regional Directors, just as the Director may review the decisions of Regional Directors. Such reviews are discretionary with the reviewing officials and are not mandatory. Any decision made by the Director is final and may not be appealed, except as specifically provided by law or regulation.

IRA J. HUTCHISON,
Deputy Director,
National Park Service.

SEPTEMBER 21, 1977.

[FR Doc.77-29002 Filed 9-30-77;8:45 am]

[4310-10]

Office of the Secretary

TRANS-ALASKA PIPELINE LIABILITY FUND

Notification of Oil Discharge Incidents

1. Purpose. To provide instructions for the reporting of oil discharge incidents by persons in charge of vessels engaged in transporting Trans-Alaska Pipeline Oil.

2. Information. The Secretary of the Interior is responsible for certain functions related to the Trans-Alaska Pipeline Liability Fund, established by Congress under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)). The purpose of the Fund is to provide compensation for certain damages resulting from oil spills from vessels transporting Trans-Alaska Pipeline Oil from the Pipeline Terminal, Valdez, Alaska, to ports of United States jurisdiction.

Section 29.8(a) of the Trans-Alaska Pipeline Liability Fund Regulation (42 FR 31792) requires the person in charge of a vessel transporting Trans-Alaska Pipeline Oil to immediately notify the Fund if an oil discharge incident occurs between the Terminal in Valdez, Alaska and a termination port of United States jurisdiction.

3. Notification Instructions. Notification of an oil discharge incident, under the provisions of § 29.8(a) of the Trans-Alaska Pipeline Liability Fund Regulation, shall be reported to the Fund through the Duty Desk, National Response Center, U.S. Coast Guard, by calling (800-426-8802). The Duty Desk is continuously manned 24 hours a day. The person notifying the Duty Desk at the National Response Center, U.S. Coast Guard, pursuant to this notice, should indicate that the oil discharge incident involves a vessel carrying oil which has been transported through the Trans-Alaska Pipeline System.

Signed at Washington, D.C., this 23rd day of September, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior and Secretary to the Board of Trustees.

SEPTEMBER 23, 1977.

[FR Doc.77-28949 Filed 9-30-77;8:45 am]

[4310-10]

[Order No. 3010]

ESTABLISHMENT OF ASSISTANT SECRETARY—INDIAN AFFAIRS

SEPTEMBER 26, 1977.

Sec. 1 *Purpose.* This order provides for the establishment of the position of Assistant Secretary—Indian Affairs in the Secretariat of the Department of the Interior. This action is being taken in accordance with the authority provided by 43 U.S.C. 1453 and 1454, and Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 2 *Establishment of Position.* An Assistant Secretary—Indian Affairs is hereby established to administer the laws, functions, responsibilities, and authorities related in Indian affairs matters. In addition to serving as an Assistant Secretary of the Department, the Assistant Secretary—Indian Affairs will assume all the authorities and responsibilities of the Commissioner of Indian Affairs pending subsequent organization and position realignments.

Sec. 3 *Authority.* (a) The Assistant Secretary—Indian Affairs will have the authority of Assistant Secretaries of the Interior as described in 210 DM 1.2.

(b) The Assistant Secretary—Indian Affairs may redelegate the authority delegated in 210 DM 1.2A, except where prohibited by statute, Executive Order, or limitations established by other competent authority. Such redelegations will be restricted to authorities currently published in Parts 205 and 230 of the Departmental Manual and to any authorities which were delegated to the Commissioner of Indian Affairs or the Bureau of Indian Affairs prior to the effective date of Reorganization Plan 3 of 1950 and which are not now specifically delegated to some other official.

(c) All authority delegated to the Commissioner of Indian Affairs is hereby revoked. Redelegations of authority within the Bureau of Indian Affairs which are based on 205 DM, 230 DM, and any authorities that were delegated to the Commissioner of Indian Affairs or the Bureau of Indian Affairs prior to the effective date of Reorganization Plan No. 3 of 1950, are hereby temporarily reinstated pending a general review of the activities of the bureau. Such reinstated authority will be subject to amendment and/or revocation by the Assistant Secretary—Indian Affairs.

Sec. 4 *Effective Date.* This order will become effective on the day the Assistant Secretary—Indian Affairs assumes office. It will remain in effect until its provisions are incorporated in the Departmental Manual, or until it is superseded or revoked. In the absence of the foregoing actions, this order will be considered obsolete one year after date of signature.

Dated: September 26, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-29005 Filed 9-30-77;8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULE II

Proposed 1977 Revised Aggregate Production Quota—Mixed Alkaloids of Opium

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On June 27, 1977, a notice of the final revised aggregate production quota for Mixed Alkaloids of Opium was published in the FEDERAL REGISTER (42 FR 32590-32591). Since the finalization of this quota, DEA has been made aware of increased export demands placed on the domestic manufacturer of dosage forms containing this substance.

One of the factors which the Administrator of the Drug Enforcement Ad-

ministration is required to consider, pursuant to § 1303.11 of Title 21 Code of Federal Regulations, when establishing quotas, is export requirements. Considering this factor as well as the other factors listed in § 1303.11 of Title 21 Code of Federal Regulations, the Administrator has deemed that it is necessary to allow the production during 1977 of additional amounts of Mixed Alkaloids of Opium. Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following change of the aggregate production quota for 1977 for Mixed Alkaloids of Opium expressed in grams in terms of anhyrous base:

Basic class	1977 aggregate production quota	
	Previously finalized	Proposed revised
Mixed alkaloids of opium	20,000	36,900

All interested persons are invited to submit their comments and objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by October 26, 1977. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

Dated: September 27, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-28909 Filed 9-30-77;8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

Draft Guidelines

The National Science Foundation plans to publish guidelines for the preparation of proposals for the Resource Center for Science and Engineering Program for FY 1978 on or about December 1, 1977. Draft guidelines for the Program follows.

Persons wishing to comment on these guidelines should write:

Dr. Shirley McBay, Resource Center for Science and Engineering Program, Division of Science Education Resource Improvement, National Science Foundation, Washington, D.C. 20550.

All comments must be received by October 12, 1977. Final guidelines will be published in the FEDERAL REGISTER on or about December 1, 1977.

WALTER L. GILLESPIE,
Division Director, Science Education Resource Improvement.

DRAFT GUIDE FOR THE PREPARATION OF PROPOSALS

RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

Stage One Proposal Dates

Receipt Date: February 17, 1978
Notification Date: Mid-March, 1978

Stage Two Proposal Dates

Receipt Date: May 19, 1977

Announcement of Selection of Resource Center Site

Early September, 1978

National Science Foundation Division of Science Education Resource Improvement Washington, D.C. 20550

INSIDE FRONT COVER

I. EXCERPT FROM FY 1978 NSF AUTHORIZATION LAW

The FY 1978 Budget for the Resource Center for Science and Engineering Program is approximately $2.6 million.

The following is an excerpt from the FY 1978 NSF Authorization Law (Pub. L. 95-39) regarding the Resource Center for Science and Engineering Program, Section 6(a), (b):

"Sec. 6(a) The National Science Foundation shall establish a Resource Center for Science and Engineering to be located at an educational institution which—

(1) Enrolls substantial numbers of minority students, students from low-income families, or both;

(2) Is geographically located near one or more population centers of low-income families or minority groups;

(3) Demonstrates a commitment to encouraging and assisting minority students or students from low-income families or both; and

(4) Has an existing or developing capacity to offer doctoral programs in science and engineering.

(b) The Center established under this section shall—

(1) Support basic research and acquisition of necessary research facilities and equipment;

(2) Serve as a regional resource in science and engineering for the community which the Center serves; and

(3) Develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families."

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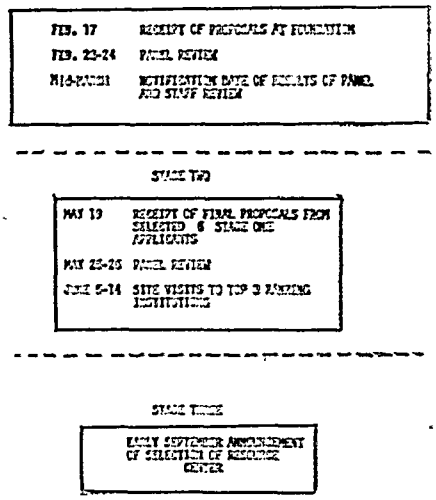
II PROPOSAL AND SELECTION PROCESS



III. PROGRAM DESCRIPTION

Introduction

The Resource Center for Science and Engineering (RCSE) Program is a successor to the Fiscal Year 1977 Minority Centers for Graduate Education in Science and Engineering Program. In Fiscal Year 1978, the Foundation is authorized and directed to support the establishment in one Resource Center as characterized in the legislative excerpt on the inside Front Cover of this Guide. Subject to the availability of funds, it is the Foundation's intent to establish additional centers over a period of time.

General Purpose and Objectives

The Resource Center for Science and Engineering Program is designed to promote increased participation in science and engineering by minorities* and persons from low-income families*.

*Segments omitted in this FEDERAL REGISTER Draft are substantially similar to standard NSF descriptions.

*See page 3 for definitions.

The Program seeks to expand the options in science and engineering of minority students and students from low-income families by assisting eligible institutions in their efforts:

To increase the application of such students.

To increase the number of doctorates in science received by these students.

To provide such students with role models in science and research opportunities with established scientists.

To provide faculty associated with the Resource Center with academic research career options and to increase their scholarly productivity.

In Fiscal Year 1978 support will be provided for the establishment of a single center geographically located near one or more population centers of minority groups or low-income families which will (1) support basic research, (2) serve as a regional resource in science and engineering, and (3) develop joint educational programs with nearby pre-college and under graduate institutions enrolling substantial numbers of minority students or students from low-income families.

Science as defined for the purposes of this Program includes the biological, engineering, mathematical, physical, and social sciences, the history and philosophy of science, and interdisciplinary fields which are comprised of overlapping areas among two or more sciences (e.g., biophysics, geochemistry, biochemistry).

Description of the Center Concept

Applicant institutions are expected to develop proposals based upon this Guide for the establishment of a Resource Center that is regional in function with activities appropriate to the institutional and community context in which the Center would exist.

A Resource Center must serve a variety of functions for the various constituents of the region in which it is located. For the minority student or the student from a low-income family, a Resource Center should:

Provide access to established scientists on its faculty.

Offer a variety of quality science programs.

Have faculty and programs reflecting sensitivity to the needs of ethnic minority students or students from low-income families.

Have demonstrated strength in the performance of basic research.

Possess a demonstrable history for the admission and retention through graduation of minority students or students from low-income families.

Have visible and functional faculty to serve as role models for these students.

Possess substantial support programs including counseling, guidance, financial and tutorial assistance.

Provide a favorable student atmosphere for developing self interests and for learning.

For the minority faculty member at the grantee institution, a Resource Center should:

Have a demonstrated commitment to minority faculty as evidenced by its past, present and projected future record with respect to their hiring, promotion, and tenure.

Provide optimum conditions for research by and the professional development of its faculty.

For the academic community at the grantee institution, a Resource Center should:

Facilitate information exchange between its various science departments.

Coordinate activities among its departments and university administration as they relate to the specific needs and benefit of minority students or students from low-income families.

For the nearby community, a Resource Center should:

Enhance information exchange between academia and the lay community.

Function as a forum through which local scientific needs and interests can be expressed.

Serve as a medium for on-going, long-term inquiry and monitoring of research activities relevant to the scientific needs and priorities of the community.

Encourage the most talented students in the local community to consider choosing careers in science and engineering.

Types of Support

In general, support may be provided in this Program for a variety of activities in science research or science education, not excluded elsewhere in this Guide, which will aid the grantee in developing its capacity to function as a Resource Center as described in previous sections.

Supportable activities may include, but are not limited to, the purchase of scientific instructional or research equipment and supplies, research assistantships for students; library additions; strengthening of existing curricula; addition of graduate level science faculty; visiting scientists; student attendance at professional meetings; minor renovation of physical facilities; efforts to increase communication and facilitate scientific interchange between the Resource Center and neighboring undergraduate institutions with substantial enrollments of minority students or students from low-income families; development of outreach and educational programs for the community(ies) which it serves and for nearby per-college institutions which enroll a substantial number of minority students or students from low-income families; and the use of consultants in planning and evaluation efforts.

Activites may also include cooperative programs with industry, faculty and student exchange programs, workshops, institutes, and programs to increase the awareness by students, their parents and teachers concerning the diversity of science careers. These examples should be considered as illustrative and not as limiting or required components of projects.

Eligibility and Limitations

Institutions eligible to submit proposals in Fiscal Year 1978 to the Resource Center Program are graduate degree granting institutions, or groups of institutions of higher education involving at lease one graduate degree granting institution, which meet all of the criteria listed below:

Enroll substantial numbers of minority students, students from low-income families, or both.*

Are geographically located in or near one or more population centers of low-income families or minority groups.

Substantial—at least 800 full-time minority students and/or students from low-income families, including undergraduate, and graduate, at least 50 of which must be enrolled beyond the junior level in the natural or physical sciences or engineering and at least 50 of which must be enrolled beyond the junor level in the social sciences.

Minority—includes Alaskan Natives, American Indians, Blacks, Mexican-Americans, Puerto Ricans and/or other disadvantaged ethnic minorities who are under-represented in science and engineering. A proposing institution's minority enrollment may be predominantly a single minority group or a combination of the minority groups described above.

Low-Income Family—A family whose adjusted family income is less than $7,500.

Have a demonstrated commitment to encouraging and assisting minority students or students from low-income families, or both;

Have an existing or devoloping capacity to offer doctoral programs in science and engineering and currently offer at least the master's degree in three or more areas of science.

Are willing to support basic research and the acquisition of necessary research facilities and equipment.

Are willing to serve as a regional resource in science and engineering for the nearby community of minority groups or low-income families.

Are willing to develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families.

A group of institutions submitting a cooperative or consortium proposal to the program must, when considered as a single entity, satisfy the criteria listed above.

A proposal for the establishment of the Center is expected to involve several science disciplines as opposed, for example, to only involving mathematics or only involving engineering.

The grant request should be for approximately $2.6 million to be expended over a three to five year period.

Assurance of renewal support of the Center to be established in this Program is not possible. Therefore, any proposed achievements primarily dependent upon Foundation support should be attainable within the grant period. This does not exclude, of course, the inclusion of proposed achievements dependent upon institutional or other external support which may be attainable during or following the grant period. Proposals should describe long range plans for the Resource Center, including how the institution proposes to maintain the Center after NSF funding ceases.

A proposal must address the needs of the principal minority or low-income groups in the region that the Center would be serving, for it is unlikely that, within the foreseeable future, more than one Center will be established within a given region.

An institution, whether submitting a proposal on its own behalf or as a part of a group of institutions, is eligible to submit or participate in only one proposal. Participation in the Resource Center Program does not in any way affect an institution's eligibility to submit proposals or receive support from other Foundation programs.

Types of Proposals

Proposals may be submitted by any eligible institution or eligible group of institutions in Stage One of the Resource Center selection process. Final proposals will be accepted in Stage Two from institutions represented in the six ranking proposals of Stage One. These proposals are expected to contain revisions of the original proposals, based upon reviewer and staff comments. Only proposals from these six institutions will be reviewed in Stage Two.

Final proposals are generally expected to differ in content from initial proposals in the following ways:

Extent of Narrative and Budget details;

Extent of supportive documents;

Curriculum Vitae for consultants;

Information on other areas identified in reviewer and staff comments;

Information on Current and Proposed Projects and on Previous NSF Awards.

The preparation and submission of each type of proposal is discussed in subsequent sections of this Guide.

Definitions:

Institutions planning to submit Stage One proposals should complete and mail the Intent to Submit Card found on the Back Cover of this Guide by January 6, 1978.

IV. PREPARATION AND SUBMISSION OF INITIAL PROPOSALS—STAGE ONE

Proposal Format and Content

Proposals must contain the following in the order listed:

Cover Sheet;
Estimated Budget Sheet;
Institutional Data Sheet;
Narrative;
Curriculum Vitae of Key Project Personnel;
Local Review Statement.

Forms for the Cover Sheet, Estimated Budget Sheet, and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of proposals.

Budget

Estimated budget figures are permissible in Stage One. Budget guidelines and exclusions are discussed under General Fiscal Information on page 13.

Narrative

The Narrative should not exceed twenty (20) double spaced pages, typed on one side only. It should set forth the proposed plan for the establishment of a Resource Center designed to accomplish Program objectives as reflected in this Guide and in the Program's authorizing legislation which is reproduced on the Inside Front Cover.

Specific topics which should be discussed in the Narrative include the following:

Appropriateness/Eligibility of Institution as a Resource Center. Describe how applicant meets each of the eligibility criteria outlined on page 3. Summarize evidence of past, present, and future commitment to encouraging minority students and/or students from low-income families. Give a brief description of how the proposed plan was developed. Provide justification for this institution as the appropriate site for the Center.

Project Objectives, Strategy, and Activities. Describe project objectives, their relevance to stated Program objectives, and the proposed strategy for accomplishing them. Discuss the activities which collectively comprise the project plan. For each activity, indicate (a) the appropriateness for undertaking it, (b) how it contributes to attaining project objectives, and (c) how it compliments other components of the plan.

Organization/Management and Work/Monitoring/Evaluation Plan. Describe briefly how the project will be organized and managed including a summary description of relevant skills of key personnel involved in the project. Present a timetable giving major milestones envisioned for the project as well as a procedure for monitoring project progress. Outline an evaluation plan for determining whether project objectives are being accomplished.

Expected Outcomes. Describe the overall expected outcomes of the project and its potential impact upon the institution, the studen groups to be served, and the nearby community.

Plan for Continuation. Discuss a general plan for integrating project activities of a continuing nature into the institution(s)' educational program and budget after Foundation support ceases.

Curriculum Vitae for Key Project Personnel should be appended to the Narrative.

V. LOCAL REVIEW STATEMENT

A local review statement signed by the chief executive officer of the institution must be appended to the proposal. This statement should indicate how the proposed project relates to overall institutional goals, the institution's general support for the proposed effort and its willingness to provide the necessary institutional resources for successful project implementation. This statement must clearly indicate the institution's willingness to cooperate in special monitoring requirements necessary in a project from which regular feedback must be obtained for future program planning. See page 13 for discussion of NSF monitoring and evaluation of the project.

In the case of a proposal submitted by a group of institutions, a local review statement must be included from each of the participating institutions.

Materials Required

Fifteen (15) copies of the proposal (including the Signature Copy) along with three (3) copies of the catalog of the graduate institution(s) involved in the proposal are required.

Proposals and catalogs should be mailed in a single package to:

Central Processing Section for Resource Center in Science and Engineering Program, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8½" by 11") paper, printed on one side only, and stapled only in the upper left hand corner with no covering or binding material.

To facilitate prompt acknowledgment of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage One initial proposals from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Signature Copy of the Cover Sheet.

Receipt Date and Projected Notification Date

All proposals must be received in the Foundation by close of business on February 17, 1978. No exceptions will be made to this requirement. Proposers will be notified of the outcome of the proposal review process about mid-March, 1978. Prior to this notification, no information can be given on the probable outcome of any proposal.

V. PREPARATION AND SUBMISSION OF FINAL PROPOSALS—STAGE TWO

Final proposals will be accepted from the institutions submitting the six ranking proposals in Stage One. They are expected to be revisions of the proposals originally submitted, based upon reviewer and staff comments. General differences between initial proposals and final proposals are discussed on page 5.

While final proposals are revisions, they must be self-contained since they will be the subjects of a separate review.

Proposal Format and Content

Final proposals must contain the following in the order listed:

Cover Sheet for Final Proposals;
Proposal Budget Sheet, NSF Form 1030;
Budget Details and Justification;
Institutional Data Sheet;
Information on Current or Proposed Projects;
Summary Information on Previous NSF Awards;
Abstract;
Narrative;
Curriculum Vitae of Key Project Personnel and Consultants;
Local Review Statement.

Forms for the Cover Sheet, Proposal Budget Sheet (NSF Form 1030) and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of final proposals.

Budget Details and Justification

Immediately following the Budget Sheet, details and justification must be provided for each major budget category.

Information on Current or Proposed Projects

Each proposal must list all current projects, in addition to the proposed project to which the senior personnel have commited a portion of their time, whether or not salary for the person involved is included in the budgets of the various projects. This information should include the titles and dates of current grants or contracts, the source of funds, annual budget levels, and the person-months devoted to each project by each of the senior personnel.

The proposal must also provide analogous information for all other proposed projects which are being considered by, or which will be submitted in the near future to, other possible sponsors including other Foundation programs. Concurrent submission of a proposal to other organizations will not prejudice its review by the Foundation.

Summary Information on Previous NSF Awards

An institution, whether submitting an individual proposal or participating in a proposal submitted by a group of institutions, that has received any previous grant of more than $100,000 from the National Science Foundation within the last three years must prepare a brief summary statement containing the following information for each such grant:

A. Grant number, title, date, and amount.

B. Summary of objectives and activities.

If any of these awards relate specifically to minority students or students from low-income families, then evidence of success in attaining the objectives of each such award should be given.

Abstract

The Abstract, of no more than two pages in length, should present a synopsis of the proposed plan for the establishment of the Resource Center. If the proposed project is funded, the Abstract will be available to the public. The Abstract should therefore be written in language which can be understood by the general public.

Narrative

The Narrative should be no more than 50 pages in length. Specifically, each of the topics discussed in the Narrative of initial proposals from Stage One and described on page 5 should be addressed in detail. Major questions or deficiencies of the initial proposal which were identified in the review process should be addressed under the appropriate Narrative topic.

Curriculum Vitae

Curriculum Vitae of Key Personnel and Consultants should be appended to the Narrative.

Local Review Statement

A Local Review Statement as described on page 6 must be included for the final proposal.

Materials Required

Fifteen (15) copies of the final proposal (including the Signature Copy) are required. Proposals should be mailed in a single package to:

Central Processing Section for Resource Center for Science and Engineering Program, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8½ by 11") paper, printed on one side only, and stapled only in the upper left hand corner with no covering or binding material.

To facilitate prompt acknowledgement of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage Two final proposals from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Cover Sheet of the Signature Copy. When the packages arrives, the date of receipt and an assigned proposal number will be stamped on the card before it is returned, so that thereafter the proposer and the Foundation may refer to this proposal number in correspondence about the proposal.

Receipt Date and Projected Award Date

All final proposals must be received in the Foundation by close of business on May 19, 1978. No exceptions will be made to this requirement. The projected Award Date will be in early September, 1978.

Proposers should submit written notification of any developments, following submission of the proposal, that might significantly affect the proposed plan. The Program staff will contact proposers if additional information is required. All final decisions will be announced by written notification to the project director and to officials of the proposing institution. Prior to this notification, no information can be given on the probability of support for any proposal.

VI. Evaluation Criteria and Procedure

The excellence of Foundation supported activities is heavily dependent upon advice received from the scientific and educational communities. Proposals will be reviewed competitively at each stage by panels which include representation of minority scientists and educators and other persons knowledgeable of minority or low-income communities to be served as well as by Foundation Staff. All proposals will be examined to determine the applicant's eligibility for participation in the Program on the basis of the criteria listed on Page 3.

At each stage, proposals will be evaluated according to the following criteria:

Congruence with Program Goals. How relevant are the objectives of the proposed project to stated program goals?

Demonstrated Commitment to Encouraging and Assisting Minority Students of Students from Low-Income Families, or Both. What is the institution's past record (recruitment, retention, number of graduates) regarding such students? Provision of role models as reflected in past record (hiring, retention, promotion, tenure) with respect to minority faculty? Support facilities (counseling, financial aid, tutorial assistance)? Financing (institutional funding vs. external funding) of programs for minority students from low-income families? What are its future plans with respect to all of the above?

Institution's Potential as the Center Location. Has the proposing institution identified significant ways in which it would be able to serve as a resource in science and engineering to nearby population centers of minority groups or low-income families and to neighboring pre-college and undergraduate institutions with substantial enrollments of students from minority groups of low-income families? Has the institution made a compelling case for why it would be best suited to serve as the Center site? Is there a significant indication of institutional commitment for the proposed plan?

Appropriateness and Adequacy of the Plan for the Proposed Objectives. How appropriate are the proposed activities to the proposed objectives? Is the proposed plan likely to achieve the stated objectives?

Adequacy of Organization/Management and Work/Monitoring/Evaluation Plan. Are the skills and experience of key project personnel appropriate for the implementation of the proposed project? Do the teaching and administrative arrangements made for project personnel provide them with adequate time to devote to the project? Is the time schedule described in the proposal appropriate? Are the milestones listed realistic? Is the described monitoring/evaluation plan acceptable?

Impact Potential of Project on the Institution or Nearby Minority and/or Low-Income Community. Is the likely gain by the institution and the nearby minority community or community of low-income families from the implementation of the proposed project substantial?

Overall Scientific and Educational Value of the Project. Do the techniques and approaches proposed reasonably reflect what is known to be effective in science education? Are the approaches proposed appropriate to the needs of the student populations to be served? Is there potential transferability of the various aspects of the project to other institutions? Are the proposed activities in basic research reasonable and appropriate to the institutional setting?

Panelists will be instructed to place greater emphasis upon the following:

The Proposed Objectives and Activities of the Plan.

Demonstrated Commitment (past, present, and projected) to Encouraging and Assisting Minority Students or Students From Low-Income Families, or Both.

Institution's Potential as the Resource Center Location.

Impact Potential of Project on the Institution and the Nearby Minority and/or Low-Income Community.

Six applicants will be invited to submit revised proposals for review in the second stage of the Resource Center selection process. In determining which proposers will participate in the second stage, selection will be made in merit order. In cases of proposals with substantially equal merit, as determined by the merit review process, use may be made of other criteria such as geographical or disciplinary distribution of funds, distribution of awards among appropriate types of institutions, or other criteria determined to be consistent with Foundation policy and legislative intent.

Pre-Award Site Visits

It is expected that a five member team composed of recognized scientists and educators and others knowledgeable of institutional planning/budgeting, and Foundation Staff will make two-day site visits to each of the three top applicants resulting from the Stage Two review process. These visits will be primarily for the purpose of consulting with proposed key project personnel, institutional officials, faculty, and other appropriate persons to resolve, to the extent possible, any major questions regarding the applicant's proposed plan and its appropriateness as the site of the Resource Center.

Applicants will receive written notification of the status of their proposals at the various stages.

From Section VII

General Fiscal Information—Budget Guidelines

See page 4 for limitations on grant duration and size. Proposals are expected to involve a diversity of activities, as opposed to being one-dimensional, therefore no single budgetary request (e.g., equipment, faculty and staff salaries, renovation, etc.) should comprise more than 35 percent of the total support requested.

Specific exclusions exist for requesting Foundation support. NSF funds will not be provided for:

Student scholarships or fellowships (but student wages for special activities in the project are permitted as are student research assistantships).

Augmenting the salary rate for faculty members pursuing regularly assigned duties or to support any other ongoing regular activity at the institution; or

The construction of major new buildings. This does not preclude Foundation support for such remodeling or renovation of existing facilities as may be required to carry out activities which are a part of the proposed Resource Center.

NSF Monitoring and Evaluation of Resource Center Award

Proposers should be aware that the Foundation shall monitor and evaluate the Resource Center project. Thus proposers should be prepared to cooperate with evaluators eventually retained by the Foundation as well as to cooperate in any special monitoring requirements which might be established.

INSTITUTIONAL DATA (Required of Initial and Final Proposals)

NAME OF INSTITUTION

	Total for Inst.	Total for Nat. & Phy. Sci.	Total for Soc. Sci.	Total for Eng.	MINORITY* DATA: Total for Inst.	MINORITY* DATA: Total for Nat. & Phy. Sci.	MINORITY* DATA: Total for Soc. Sci.	MINORITY* DATA: Total for Eng.	DATA ** ON STUDENTS FROM LOW-INCOME FAMILIES NOT INCLUDED IN MINORITY DATA: Total for Inst.	Total for Nat. & Phy. Sci.	Total for Soc. Sci.	Total for Eng.
1. Faculty (F.T.E.)												
# on Tenure												
2. Undergraduate Student Body (F.T.E.)												
3. Graduate Student Body (F.T.E)												
4. Undergraduate Degrees Awarded Last AY												
5. Graduate Degrees Awarded Last AY-Master's Level Only												
6. Graduate Degrees Awarded Last AY-Doctorate Level Only												
7. Educational and General Budget												
8. Average Faculty Salary												
9. No. of Library Volumes												

* See Footnote on Page 3 for definition of "Minority" (This section should be completed only if student group to be served consists primarily of minority students)

** See Footnote on Page 3 for definition of low-income families (This section should be completed only if student group to be served consists primarily of non-minority students from low-income families)

[FR Doc.77-28902 Filed 9-30-77;8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Co. (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One—Unit No. 1 (the facility) located in Pope County, Ark. The amendment is effective as of its date of issuance.

The amendment modified the Technical Specification pressure-temperature limit curves for hydrostatic test, normal heatup, and normal cooldown, as required by Technical Specification 3.1.2.7 and as based upon analysis of surveillance capsule ANI-E, which was withdrawn from the Arkansas Nuclear One—Unit 1 reactor vessel in Spring 1976.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 8, 1977, (2) Amendment No. 28 to Facility Operating License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-28791 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 70-1308]

GENERAL ELECTRIC CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

GENERAL ELECTRIC CO.

(GE MORRIS OPERATION)

[Material License No. SNM-1265]

This action is in reference to a notice published by the Commission on August 18, 1977, in the FEDERAL REGISTER (42 FR 41675) entitled "Consideration of Proposed Modification to GE Morris Operation Fuel Storage Facility".

The members of the Board and their addresses are as follows:

Andrew C. Goodhope, Esq., Chairman, 3320 Estelle Terrace, Wheaton, Md. 20906.
Dr. Linda W. Little, Member, Research Triangle Institute, P.O. Box 12194, Research Triangle Park, N.C. 27709.
Dr. Forrest J. Remick, Member, 305 E. Hamilton Avenue, State College, Pa. 16801.

Dated at Bethesda, Md., this 26th day of September 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-28792 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of its date of issuance.

The amendment consists of Technical Specification changes to incorporate approved exemptions from certain requirements of 10 CFR Part 50 Appendix J regarding main steam isolation valve leak rate testing, main steam line and feedwater line bellows leak rate testing, and extension of the test interval for Type C leak rate testing for the Cooper Nuclear Station.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the requests for exemption dated September 10, 1975 and January 4, 1977, as supplemented by letter dated April 4, 1977, (2) Amendment No. 38 to License No. DPR-46, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public innspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-28788 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-40, issued to Omaha Public Power District, which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1 located in Washington County, Nebr. The amendment is effective as of its date of issuance.

The amendment amends section 1-1 of the Environmental Technical Specifications to allow: (1) an increase in the allowable condenser cooling water temperature rise during winter months and (2) the limits on condenser cooling water temperature rise to be exceeded for brief periods when required by facility operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Com-

mission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment dated August 13, 1976, as superseded in its entirety by letter dated March 14, 1977, (2) Amendment No. 30 to License No. DPR–40, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public-Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director: Division of Operating Reactors.

Dated at Bethesda, Md. this 23rd day of September 23, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-28793 Filed 9-30-77;8:45 am]

[7590-01]

[Docket Nos. 50-275 OL; 50-323 OL]

PACIFIC GAS & ELECTRIC CO.; (DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 & 2)

Order Relative to an Evidentiary Hearing on Nonseismic Issues

The evidentiary hearing on the adequacy of the Emergency Plan will begin at 10:00 a.m. (local time) on October 18, 1977 in the Cavalier Room, San Luis Bay Inn, Marre Ranch, Avila Beach, Calif. The Board wil also expect the NRC Staff to furnish a witness to sponsor the Revised Table S-3 values on the Diablo Canyon cost/benefit balance.

The public is invited to attend. Limited appearance statements will be invited at this proceeding from those persons who have not previously given a statement. Oral statements will be limited to five (5) minutes but written statements without limitation on length may be submitted.

Be it so ordered.

Issued at Bethesda, Md., this 23rd of September, 1977.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.77-28787 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR–59, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. Fitzpatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specification provisions with respect to the schedule for installation and removal of a neutron flux monitor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated August 31, 1977, (2) Amendment No. 29 to License No. DPR–59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September 1977.

For the Nuclear Regulatory Commission.

GERALD B. ZWETZIG,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-28789 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR–59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment authorizes operation of the facility with: (1) 8 x 8 reload fuel bundles with 100 mil channels, (2) holes drilled in the lower tie plate of all reload fuel bundles and all first cycle fuel remaining in the core after refueling, (3) independent power supplies for the Low Pressure Coolant Injection System Motor Operated Valves, (4) the valve of the control rod drive hydraulic return line placed in the closed position, and (5) limiting Maximum Average Planar Linear Heat Generation Rates as determined by a reevaluation of the Emergency Core Cooling System (ECCS) cooling performance. Effective upon issuance of this amendment, the Commission's Order for Modification of License dated March 11, 1977, relative to Facility Operating License No. DPR–59, is terminated.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with Items 1 and 2 of this action was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31847). A similar Notice in connection with Item 5 of this action was published in the FEDERAL REGISTER on July 22, 1977 (42 FR 37608). No requests for a hearing or petition for leave to intervene were filed following these notices of the proposed action. Prior public notice of Items 3 and 4 was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment submitted by letters dated May 16 and July 25, 1977, as supplemented, (2) the licensee's request dated July 7, 1977, as revised July 29, 1977, and supplemented, (3) Amendment No. 30 to License No. DPR-59, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September 1977.

For the Nuclear Regulatory Commission.

GERALD B. ZWETZIG,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-28794 Filed 9-30-77;8:45 a.m.]

[7590-01]

[Docket Nos. 50-553; 50-554]

TENNESSEE VALLEY AUTHORITY; (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of September 22, 1977, oral argument on the ruling referred by the Licensing Board's order of April 20, 1977, is calendared for 10 a.m., Wednesday, October 26, 1977, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Md.

Dated: September 23, 1977.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-28790 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-26, issued to Consolidated Edison Co. of New York, Inc., which revised the license for operation of the Indian Point Nuclear Generating Station, Unit No. 2 located in Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the license to conform to the decision of the Atomic Safety and Licensing Appeal Board dated May 20, 1977 (ALAB-399 5 NRC 1156). The license now states that governmental approvals required to proceed with construction of the closed cycle cooling system have not been received pending further proceedings with respect to the Village of Buchanan Zoning approval.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that since the issuance of this amendment reflects the legal status of governmental approvals, it does not require an analysis of environmental impacts. Pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement, negative declaration or environmental impact appraisal need not, therefore, be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 23, 1977, and (2) Amendment No. 33 to License No. DPR-26. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. 10601.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of September 1977.

For the Nuclear Regulatory Commission.

MORTON B. FAIRTILE,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-28950 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Co. (the licensee), which revised Technical Specifications for operation of Unit 1 of Dresden Nuclear Power Station (the facility) located in Grundy County, Ill. The license amendment is effective as of its date of issuance.

The amendment (1) authorized operation of the facility with additional 6 x 6 fuel assemblies as replacement for some of the existing fuel assemblies, (2) incorporated revised Minimum Critical Heat Flux Ratio limits that assure conservative operation with respect to thermal hydraulics during Cycle 11, and (3) incorporated new Maximum Average Planar Linear Heat Generation Rate limits to assure that the reactor is operated so as to continue to meet the emergency core cooling system performance criteria.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31845). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment date April 11, 1977, and supplements thereto dated May 23, August 3, and September 8 and 15, 1977, (2) Amendment No. 21 to License No. DPR-2, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Strect NW., Washington, D.C. 20555. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of September 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-28952 Filed 9-30-77;8:45 am]

[7590-01]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.; (VERMONT YANKEE NUCLEAR POWER STATION) (SPENT FUEL PROCEEDING)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this (spent fuel) proceeding:

Alan S. Rosenthal, Chairman; Dr. John H. Buck, Dr. W. Reed Johnson.

Dated: September 26, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-28954 Filed 9-30-77;8:45 am]

[7590-01]

[Docket 70-25]

ATOMICS INTERNATIONAL NUCLEAR FUEL FABRICATION FACILITIES

Negative Declaration Regarding Renewal of License No. SNM-21

The U.S. Nuclear Regulatory Commission (the Commission) has issued a renewal of Special Nuclear Material License No. SNM-21 for the continued operation of the Atomics International Nuclear Fuel Fabrication Facilities at Los Angeles, Calif.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the renewal of License No. SNM-21. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal is not warranted because there will be no significant environmental impact attributable to the action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document at 1717 H Street NW., Washington, D.C.

Dated at Silver Spring, Md., this 15th day of September, 1977.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 77-28954 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 40-8102]

EXXON CO., U.S.A.; HIGHLAND URANIUM MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Exxon Co., U.S.A. has filed an environmental report in support of their application for a source material license for the solution mining of uranium at the Highland uranium milling and mining operation site located in Converse County, Wyo. The report, which discusses environmental considerations related to the proposed solution mining operation is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of federal agencies and state and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 23d day of September, 1977.

For the Nuclear Regulatory Commission.

W. T. CROW,
Fuel Processing and Fabrication Branch Division of Fuel Cycle and Material Safety.

[FR Doc 77-28951 Filed 9-30-77;8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ENVIRONMENTAL SUBCOMMITTEE

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Environmental Subcommittee will hold an open meeting on October 20, 1977 in Room 1162, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to review the concepts of Regulatory Guides 1.52 and 1.ZZ, and Radiological Assessment Branch Technical Position (BTP) on Radiological Environmental Monitoring.

The agenda for subject meeting shall be as follows:

Thursday, October 20, 1977.

8:30 a.m. until conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations and hold discussions with representatives of the NRC Staff pertinent to this review.

At the conclusion of this session, the Subcommittee will caucus in order to determine whether the matters identified in the initial session have been adequately covered, and to formulate any recommendations the Subcommittee may wish to make to the full committee.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 13, 1977 to Mr. Ragnwald Muller, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 19, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1413. Attn: Mr. Ragnwald Muller) between 8:15 a.m. and 5:00 p.m. EDT.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 27, 1977 and January 20, 1978, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: September 29, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

]FR Doc.77-29067 Filed 9-30-77;8:45 am[

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

FEDERAL AUTOMATED INFORMATION SYSTEM

On September 23, 1977, the Office of Management and Budget sent a Memorandum to the Heads of Executive Departments and Establishments concerning proposed policy for the security of Federal automated information systems (Circular No. A-71).

The purpose of this notice is to solicit comments from the public on this proposed policy. Comments should be forwarded to the Information Systems Policy Division, Office of Management and Budget, Washington D.C. 20503, on or before November 2, 1977.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington D.C., SEPTEMBER 23, 1977.

To the Heads of Executive Departments and Establishments:

Subject: Proposed policy for the security of Federal automated information systems.

The attached draft memorandum supplements OMB Circular No. A-71 and provides policy guidance for developing and implementing a computer security program. Comments on the proposed policy should be forwarded to this office within 30 days. It is also requested that you provide estimates of both one-time and annually recurring resources required to implement the policy. Questions should be addressed to the Information Systems Policy Division (202-395-4814).

WAYNE G. GRANQUIST,
Associate Director for Management and Regulatory Policy.

Attachment.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

CIRCULAR NO. A-71—TRANSMITTAL MEMORANDUM NO. 1

To: The heads of executive departments and establishments

Subject: Security of Federal automated information systems

1. *Purpose.* This Transmittal Memorandum promulgates policy and responsibilities for the development and implementation of computer security programs by executive branch departments and agencies.

2. *Background.* Increasing use of computer and communications technology to improve the effectiveness of governmental programs has introduced a variety of new management problems. Many public concerns have been raised in regard to the risks associated with automated processing of personal, proprietary or other sensitive data. Problems have been encountered in the misuse of computer and communications technology to perpetrate crime. In other cases, inadequate administrative practices along with poorly designed computer systems have resulted in improper payments, unnecessary purchases or other improper actions. The policies and responsibilities for computer security established by this Transmittal Memorandum supplement those currently contained in OMB Circular No. A-71.

3. *Responsibility of the heads of executive agencies.* The head of each executive branch department and agency is responsible for assuring an adequate level of security for all agency data whether processed in-house or commercially. This includes responsibility for the establishment of physical, administrative and technical safeguards required to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as national security data. It also includes responsibility for assuring that automated processes operate effectively and accurately. In fulfilling this responsibility each agency head shall establish policies and procedures and assign responsibility for the development, implementation, and operation of an agency computer security program. The agency's computer security program shall be consistent with all Federal policies, procedures, standards and guidelines issued by the Office of Management and Budget, the General Services Administration, the Department of Commerce, and the Civil Service Commission. In consideration of problems which have been identified in relation to existing practices, each agency's computer security program shall at a minimum:

a. Assign responsibility for the security of each computer installation operated by the agency, including installations operated directly by or on behalf of the agency (e.g. government-owned contractor operated facilities), to a management official knowledgeable in data processing and security matters.

b. Establish personnel security policies for screening all individuals participating in the design, operation or maintenance of Federal computer systems or having access to data in Federal computer systems. These policies should include, as appropriate, requirements for background investigations of both government and contractor personnel. Personnel security policies for Federal employees shall be consistent with policies issued by the Civil Service Commission.

c. Establish a management control process to assure that appropriate administrative, physical and technical safeguards are established for all new computer applications. While this control process should apply to all new computer applications, particular emphasis should be placed on computer applications intended to be used to issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention (so-called automated decisionmaking systems). The management control process shall, at a minimum, include policies and responsibilities for:

(1) Defining and approving security specifications for all new computer applications and modifications to existing applications prior to programming such applications or changes. The views and recommendations of the computer user organization, the computer installation and the individual responsible for the security of the computer installation shall be sought and considered prior to the approval of the security specifications for the application.

(2) Conducting and approving design reviews and systems tests of new or changed computer applications prior to using them operationally. The objective of the design reviews should be to ascertain that the proposed design meets the approved security specifications. The objective of the system tests should be to verify that the planned administrative, physical and technical security requirements are operationally adequate prior to the use of the system. The results of the design review and system test shall be fully documented and maintained as a part of the official records of the agency. Upon completion of the system test, an official of the agency shall certify that the system meets the documented and approved system security specifications, meets all applicable Federal policies, regulations and standards, and that the results of the test demonstrate that the security provisions are adequate for the application.

d. Establish and agency program for conducting periodic audits and recertifying the adequacy of the security of each operational computer application which processes personal, proprietary or other sensitive data, or which issues checks, requisitions supplies or performs similar functions with little or no human intervention (automated decisionmaking applications). This audit and recertification process is to be conducted by technically qualified professionals in an organization independent of the user organization and computer facility manager. Periodic audits and recertification shall be performed at time intervals determined by the agency, commensurate with the sensitivity of information processed and the risk and magnitude of loss or harm that could result from the application operating improperly, but shall be conducted at least every three years.

e. Establish policies and responsibilities to assure that appropriate security requirements are included in specifications for the acquisition or operation of computer facilities, equipment, software, or related services,

whether produced by the agency or by the General Services Administration. These requirements shall be reviewed and approved by the management official assigned responsibility for security of the computer installation to be used. This individual must certify that the security requirements specified are adequate for the intended application and that they comply with current Federal computer security policies, procedures, standards and guidelines.

f. Assign responsibility for the conduct of periodic risk analyses for each computer installation operated by the agency, including installations operated directly by or on behalf of the agency. A risk analysis shall be performed:

(1) Prior to the approval of design specifications for new computer installations.

(2) Whenever there is a significant change to the physical facility, hardware or software at a computer installation. Agency criteria for defining significant changes shall be commensurate with the sensitivity of the information processed by the installation.

(3) At periodic intervals of time established by the agency, commensurate with the sensitivity of the information processed by the installation, but not to exceed three years, if no risk analysis has been performed during that time.

4. *Responsibility of the Department of Commerce.* The Secretary of Commerce shall develop and issue standards and guidelines for assuring security of automated information. Each standard shall, at a minimum, identify:

a. Whether the standard is mandatory or voluntary.

b. Specific implementation actions which agencies are required to take.

c. The time at which implementation is required.

d. A process for monitoring implementation of each standard and evaluating whether the standard is meeting its intended objectives.

e. Requirements for use of the standard in specifications for computer hardware, software or related services issued by the agency and the General Services Administration.

f. Requirements for use of the standard in specifications for the acquisition or construction of computer facilities.

g. The conditions or criteria under which waivers to the standards may be granted.

h. The procedures for granting waivers.

5. *Responsibility of the General Services Administration.* The Administrator of General Services shall:

a. Issue policies and regulations for the physical security of computer rooms in Federal buildings consistent with standards and guidelines issued by the Department of Commerce.

b. Assure that agency procurement requests for computers, software, and related services include security requirements which have been certified by a responsible agency official. Delegations of procurement authority to agencies by the General Services Administration under mandatory programs, dollar threshold delegations, certification programs or other so-called blanket delegations shall include requirements for agency specifications and certification of security requirements. Other delegations of procurement authority shall require specific agency certification of security requirements as a part of the agency request for delegation of procurement authority.

c. Assure that computer equipment, software, computer room construction, guard or custodial services, telecommunications services, and any other related services procured by the General Services Administration meet the security requirements established by the user agency and are consistent with other applicable policies and standards issued by OMB, the Civil Service Commission and the Department of Commerce. Computer equipment, software, or related ADP services acquired by the General Services Administration in anticipation of future agency requirements shall include security safeguards which are consistent with mandatory standards established by the Secretary of Commerce.

6. *Responsibility of the Civil Service Commission.* The Chairman of the Civil Service Commission shall establish personnel security policies for Federal personnel associated with the design, operation or maintenance of Federal computer systems, or having access to data in Federal computer systems. These policies should emphasize personnel requirements to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as applications which issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention. Background investigations of Federal personnel should be required, as appropriate, commensurate with the sensitivity of the data to be handled and the risk and magnitude of loss or harm that could be caused by the individual.

7. *Reports.* Within 60 days of the issuance of this Transmittal Memorandum, the Department of Commerce, General Services Administration and Civil Service Commission shall submit to OMB plans for fulfilling the responsibilities specifically assigned in this memorandum. Within 120 days of the issuance of this Transmittal Memorandum, each executive branch department and agency shall submit to OMB its plans, for implementing a security program consistent with the policies specified herein.

8. *Inquiries.* Questions regarding this memorandum should be addressed to the Information Systems Policy Division, 202-395-4814.

[FR Doc.77-29001 Filed 9-30-77;8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

MAXIMUM INTEREST RATES

Notice is given that the Small Business Administration ("SBA") has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA on and after October 1, 1977, under Section 7 of the Small Business Act, as amended, and Section 502 of the Small Business Investment Act, as amended.

Effective October 1, 1977, the maximum rate of interest acceptable to SBA on a guaranteed loan or a guaranteed revolving line of credit shall be nine and one-half percent (9½%) per year, and the maximum rate on an immediate participation loan shall be eight and one-half percent (8½%) per year. These maximum interest rates are the same as the rates published in the FEDERAL REGISTER on July 15, 1977 (42 FR 36586), and shall remain in effect until notification of a change is issued by SBA.

The "SBA Optional Peg Rate" for the October–December 1977 quarter will be seven and one-eighth percent (7⅛%) per year.

This is an optional "peg" rate for use in connection with fluctuating-interest rate loans made in participation with SBA.

This Notice is issued under 13 CFR 120.3(b)(2)(iv).

Catalog of Federal Domestic Assistance Programs:

No. 59.002 Economic Injury Disaster Loans (E, F)
No. 59.012 Small Business Loans (E, F)
No. 59.013 State and Local Development Company Loans (E, F)
No. 59.014 Coal Mine Health and Safety Loans (E, F)
No. 59.017 Meat and Poultry Inspection Loans (Consumer Protection Loans)
No. 59.018 Occupational Safety Health Loans (E, F)
No. 59.001 Displaced Business Loans (E, F)
No. 59.003 Economic Opportunity Loans for Small Businesses (E, F)
No. 59.010 Product Disaster Loans (E)
No. 59.020 Base Closing Economic Injury Loans (E, F)
No. 59.021 Handicapped Assistance Loans (E, F)
No. 59.022 Emergency Energy Shortage Economic Injury Loans (E, F)
No. 59.023 Strategic Arms Economic Injury Loans (E, F)
No. 59.024 Water Pollution Control Loans (E, F)
No. 59.025 Air Pollution Control Loans (E, F)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29136 Filed 9-30-77;8:45 am]

[4710-01]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 570]

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Extension of Comment Period

The period for comments on the Draft Environmental Impact Statement for the new Panama Canal Treaty has been extended until October 13. The availability of the draft statement was announced in the FEDERAL REGISTER on August 29, 1977 (Public Notice No. 563, 42 FR 43466).

Copies of the draft environmental impact statement may be obtained from and comments should be submitted to William H. Mansfield III, Office of Environmental Affairs, Department of State, Room 7820, Washington, D.C. 20520.

For the Secretary of State.

LINDSEY GRANT,
Deputy Assistant Secretary, Environmental and Population Affairs.

SEPTEMBER 28, 1977.

[FR Doc.77-28983 Filed 9-28-77;1:23 pm]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

MEMORANDUM OF UNDERSTANDING BETWEEN THE ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE AND THE FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Memorandum of Understanding.

SUMMARY: This agreement is intended to facilitate the processing of direct or supplemental grant applications for road or highway projects under the Local Public Works Capital Development and Investment Act of 1976, 42 U.S.C. 6701 et seq., as amended. While the responsibilities of the Federal Highway Administration, Department of Transportation, with respect to this processing are delineated in the agreement, State and local governments must submit applications to the Economic Development Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Roth, Office of the Chief Counsel (202-426-0754), Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday—Friday.

The Memorandum of Understanding as set forth below between the Economic Development Administration, Department of Commerce, and the Federal Highway Administration, Department of Transportation, is published as a matter of public record.

I. Introduction.

The Local Public Works and Capital Development and Investment Act of 1976 (Act) 42 U.S.C. 6701 et seq., as amended by the Public Works Employment Act of 1977 (Pub. L. 95-28), authorizes the Secretary of Commerce, acting through the Economic Development Administration (EDA), to make direct grants to State or local governments (Eligible Applicant) and also to make grants supplementing other grant assistance received by an Eligible Applicant under any other Federal, State, or local law for local public works projects.

The Federal Highway Administration (FHWA), Department of Transportation, has authority to make grants for certain types of local public works projects, which projects could also be wholly funded or supplemented under the Act.

The FHWA and EDA wish to cooperate in order to facilitate the prompt and efficient delivery of the benefits conferred by the Act, and in furtherance of the intention, the parties hereby formalize this Memorandum of Understanding, which will establish certain procedures and agreements of the parties.

II. Supplemental Grants

A. In the event that FHWA allocates funds to a project as part of its grant approval process for the construction of the type of project contemplated by the Act, which project is apparently otherwise eligible for funding under the Act, the Eligible Applicant may request supplemental grant funds from EDA.

B. On request of the Eligible Applicant through the State highway agency, FHWA shall, within a period of 15 days from the receipt of the request, provide the Eligible Applicant with a Certificate, substantially in the form attached hereto and marked Exhibit A*, which attests to compliance with certain FHWA and EDA requirements.

III. General Procedures for Supplemental Grants

A. EDA will, upon acceptance of the Supplemental Grant by the Eligible Applicant, transfer the funds to the FHWA by Form SF-1151 in accordance with the requirements of EDA Directive No. 4.06-1 (Accounting Systems Manual), a copy of which is attached hereto and marked Exhibit B*.

B. Within a reasonable period of time after final inspection and acceptance of the project, FHWA will advise EDA of project completion.

C. After the Supplemental Grant has been accepted, FHWA will assume full responsibility for the supervision of the project and disbursement of the grant funds.

D. The FHWA will comply with the reporting requirements for transferred funds as outlined in Exhibit B.

E. Disbursement of the Supplemental Grant will be in proportion to disbursements of all other funds available for the project and adequate safeguards will be established to eliminate the possibility of the Supplemental Grant exceeding the authorized percentage relationship to the total cost of the project.

F. If final eligible project costs are less than the estimated costs at the time of project approval, proportionate reductions will be made in the amount of the Supplemental Grant under this Act. However, any available supplemental grant funds resulting from such a shortfall in construction costs may be utilized for additional project construction, if approved by EDA. If no further construction is requested or if a request is not approved by EDA, such funds shall be promptly returned to EDA for deobligation, or such other action which EDA considers appropriate.

IV. Direct EDA Grants

In the case of a request for a direct grant, FHWA will cooperate with EDA by providing advisory assistance upon request from EDA.

In those cases where EDA and FHWA determine that it is in the Federal interest to administer a supplemental and direct grant as a combined project, the FHWA will administer such project in accordance with the supplemental grant provision of this memorandum.

V. Pending Applications With Federal Highway Administration (FHWA)

A. In the event that an Eligible Applicant requests authorization, through the State highway agency, from FHWA for the construction of the type of project contemplated by the Act, and FHWA lacks available funding for such project, yet the project is otherwise eligible for funding under the Act, the Eligible Applicant may apply for assistance from EDA under the Act.

B. On request of the Eligible Applicant, FHWA shall within a period of 30 days of receipt of the request, provide the Eligible Applicant with a Certificate, substantially in the form of Exhibit C*, which will certify to EDA regarding the following matters:

(1) That the proposed project is in conformity with FHWA general design, program, technical, statutory and regulatory standards.

(2) That there are no unusual aspects of the project, other than those noted in the Certificate, in connection with (1) above, that should be specifically considered by EDA in approving a grant to the Eligible Applicant;

(3) That there will be provided with the Certificate a copy of any environmental analysis or environmental impact statement that has been prepared in connection with this proposed project; and

(4) That the pending application of the Eligible Applicant has been withdrawn, without prejudice, and will not be further processed while it is under consideration by EDA.

VI. Additional Funding Programs

In the event that there are future programs providing funding of facilities for which applications have already been received by EDA, but which applications either inadvertently did not include FHWA certification or such certification is not presently adequate in the opinion of EDA, FHWA agrees to provide the appropriate Regional Office of EDA with a Certificate pursuant to Section II or V hereof within 20 days of receipt of the Local Public Works Capital Development and Investment Program application by the FHWA Regional Office, if issuance of such a Certificate is appropriate. If a Certificate cannot be issued, FHWA will state the reasons for not issuing the Certificate.

*While the exhibits referred to are not being published they are available for inspection in the Office of Chief Counsel, FHWA.

Effective Date

The effective date of this Memorandum of Understanding shall be September 26, 1977.

For the Economic Development Administration, Department of Commerce.

Robert T. Hall,
Assistant Secretary for Economic Development.

For the Federal Highway Administration, Department of Transportation.

WILLIAM M. COX,
Federal Highway Administrator.

Issued on: September 21, 1977.

[FR Doc.77-29006 Filed 9-30-77;8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

United States Customs Service

COLUMBUS, N. MEX., CUSTOMS PORT OF ENTRY

Delay in Effective Date of Change in Hours of Service

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of delay in effective date.

SUMMARY: This notice delays from September 30, 1977, to October 17, 1977, the effective date of the reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. This delay is being made in order to reduce the impact the change in hours of service may cause.

DATES: The new hours will become effective October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Operations Officer, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTAL INFORMATION: On September 15, 1977, the Customs Service published a notice in the FEDERAL REGISTER (42 FR 46452), announcing a reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. The reduction in regular hours of service is being taken because the volume of traffic at the port between the hours of Midnight and 8 a.m. does not warrant providing regular service during those hours. The reduced hours of service will permit better utilization of Customs manpower and will reduce the cost of Customs operations at the port. The new hours of service, from 8. a.m. to Midnight, were to have become effective on September 30, 1977.

In order to reduce the impact the change in hours of service may cause, the Customs Service is delaying the effective date of the change until October 17, 1977.

ROBERT E. CHASEN,
Commissioner of Customs.

[FR Doc.77-29123 Filed 9-30-77;8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, 1977; Rev., Supp. No. 3]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

A certificate of authority as an acceptable surety on Federal bonds is hereby issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $298,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Republic-Franklin Insurance Company
P.O. Box 1438
Columbus, Ohio 43216

Ohio

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 27, 1977.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.77-29009 Filed 9-30-77;8:45 am]

[4810-40]

Office of the Secretary

[Department circular; Public Debt Series—No. 23-77]

TREASURY NOTES OF NOVEMBER 15, 1982

Series F-1982

SEPTEMBER 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of November 15, 1982, Series F-1982 (CUSIP No. 912827 HB 1). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the prive equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular plus accrued interest from the last preceding interest payment date on the outstanding securities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated October 17, 1977, and will bear interest from that date, payable on a semiannual basis on May 15, 1978, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, October 5, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 4, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made, and will not make any agreements for the sale or purchase of any securities of this issue prior to the

deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as leaders who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowing on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the mount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, October 17, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as difined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, October 13, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, October 12, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-29063 Filed 9-29-77;10:41 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 123TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority

under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six(6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is prediacted, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as other wise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 34TA), filed September 13, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Wayne Wilson, 329 W. Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned vegetables*, from Clintonville, Antigo, Cambria, and Markesan, Wis., to Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Virginia, Misissippi, Texas, Massachusetts, New York, and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fall River Canning Co., P.O. Box 68, Fall River, Wis. 53932, (Ruby S. Yohn). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 12078 (Sub-No. 744TA), filed August 29, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, Wis. 53246. Applicant's representative: Mr. Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc. at or near Albany, Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin, for 180 days. Supporting shipper: There are approximately 5 statements of support attached to the application which may be examined at Interstate Commerce Commission in Washington, D.C., or copies thereof may be examined at the field office below. Send protest to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 19553 (Sub-No. 38TA), filed August 31, 1977. Applicant: KNOX MOTOR SERVICES, INC., 5680 Eleventh Street, P.O. Box 359, Rockford, Ill. 61105. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). Applicant requests authority to operate from, to and between the following points, over regular routes: Between Milwaukee, Racine, and Kenosha, Wis., to the following Illinois points, as intermediate or off-route points: Bondville, Champaign, Charleston, Chrisman, Danville, Fairbury, Gibson City, Hoopeston, Mahomet, Mattoon, Milford, Monticello, Paris, Paxton, Pontiac, Rantoul, Tilton, Tolono, Tuscola, Urbana and Watseka; (1) over presently authorized regular routes to junction U.S. Highway 30; (2) from junction U.S. Highway 30 and Illinois Highway 1, via Illinois Highway 1 to junction Illinois Highway 16; thence via Illinois Highway 16 to junction Illinois Highway 45; thence via Illinois Highway 45 to junction Illinois Highway 121; thence via Illinois Highway 121 to junction to Illinois Highway 32; (3) from junction U.S. Highway 30 and Illinois Highway 1, via Illinois Highway 1 to junction U.S. Highway 36; thence via U.S. Highway 36 to junction Illinois Highway 32; (also via Illinois Highway 1 to junction U.S. Highway I-74; thence via U.S. Highway I-74 to junction U.S. Highway 136; thence via U.S. Highway 136 to junction U.S. Highway 51);

(4) From junction U.S. Highway 30 and U.S. Highway I-57, via U.S. Highway I-57 to junction Illinois Highway 16; thence via Illinois Highway 16 to junction Illinois Highway 32; (5) from junction U.S. Highway 30 and U.S. Highway I-57; thence via U.S. Highway I-57 to junction U.S. Highway I-72; thence via U.S. Highway I-72 to junction Illinois Highway 105; thence via U.S. Highway 105 to junction U.S. Highway 51; (6) from junction U.S. Highway 30 and U.S. Highway I-57; thence via U.S. Highway I-57 to junction U.S. Highway 54; thence via U.S. Highway 54 to junction U.S. Highway 51; (7) from junction U.S. Highway 30 and U.S. Highway I-57; thence via U.S. Highway I-57 to junction Illinois Highway 16; thence via Illinois Highway 16 to junction Illinois Highway 32 (also via U.S. Highway I-57 to junction U.S. Highway 24; thence via U.S. Highway 24 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136); (8) from junction U.S. Highway 30 and U.S. Highway 45; thence via U.S. Highway 45 to junction Illinois Highway 121; thence via Illinois Highway 121 to Illinois Highway 32; (9) from U.S. Highway 30 and U.S. Highway 45 via U.S. Highway 45 to junction Illinois Highway 116; thence via Illinois Highway 116 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction U.S. Highway 136; (10) from junction U.S. Highway 30 and U.S. Highway 45 via U.S. Highway 45 to junction Illinois Highway 10; thence via Illinois Highway 10 to junction U.S. Highway I-72; thence via Illinois Highway I-72 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (11) from junction U.S. Highway 30 and U.S. Highway I-55; thence via U.S. Highway I-55 to junction Illinois Highway 23; thence via Illinois Highway 23 to junction to Illinois Highway 116; thence via Illinois Highway 116 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136;

(12) From junction U.S. Highway 30 and Illinois Highway 59; thence via U.S. Highway 59 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction Illinois Highway 47; thence via Illinois Highway 47 to junction Illinois Highway 9; thence via Illinois Highway 9 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (13) from junction U.S. Highway 30 and Illinois Highway 47; thence via Illinois Highway 47 to junction U.S. Highway I-72; thence via U.S. Highway I-72 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (14) from junction U.S. Highway 30 and Illinois Highway 47 via Illinois Highway 47 to junction U.S. Highway 24; thence via U.S. Highway 24 to U.S. Highway I-55; thence via U.S. Highway I-55 to U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (15) from junction of Illinois Highway 1 and U.S. Highway 24; thence along U.S. Highway 24 to junction with U.S. Highway I-57; (16) from the junction of Illinois Highway 1 and Illinois Highway 9; thence along U.S. Highway 9 to junction with Illinois Highway 47; (17) from junction of Illinois Highway 1 and U.S. Highway 52; thence along U.S. Highway 52 to junction U.S. Highway 45. Return over the same routes with tacking at all points of joinder with each other and with authorized regular and irregular routes and serving the points of Milwaukee, Racine, and Kenosha, Wis., and all of the above-named Illinois points and the commercial zones of all of the aforesaid Wisconsin and Illinois points as intermediate and off-route points, for 180 days. Applicant has also filed an underlying ETA seeking up to

90 days of operating authority. Supporting shippers: There are approximately fifty-two (52) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 43038 (Sub-No. 469TA), filed September 12, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, Mich. 48071, and E. Phillips Malone, 3800 Frederica Street, Owensboro, Ky. 42301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movements, in truckaway service, from the plant sites or storage facilities of General Motors Corp. located at Kansas City, Mo., to points in the States of Illinois, Indiana, Michigan, and Ohio, for 180 days. Supporting shippers: General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090, E. R. Wiseman, Director, Transportation Economics. Send protests to: Erma W. Gray, Secretary of Detroit Office, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 78276 (Sub-No. 10TA), filed September 9, 1977. Applicant: MAZZEO AND SONS EXPRESS, 311 South River Street, Hackensack, N.J. 07601. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, loose, on hangers*, when moving in mixed loads with wearing apparel, in cartons, between Atlanta, Ga.; Charlotte, N.C., Hialeah and Orlando, Fla., Memphis, Tenn., and Spartansburg, S.C., on the one hand, and, on the other, points and places in the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shippers: There are approximately eleven (11) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below.

No. MC 119493 (Sub-No. 161TA), filed September 2, 1977. Applicant: MONKEM CO., INC., West 20th Street, P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except in bulk) and products produced and/or distributed by manufacturers and convertors of paper and paper products, from the plant and storage facilities of Bancroft Bag Co., located at or near West Monroe, La., to Chicago, Henry, Lexington, Jacksonville, Piper City, Bushnell, East St. Louis, and their respective commercial zones in Illinois; Greencastle, Jeffersonville, South Bend and their respective commercial zones and all points in Indiana, within the Chicago, Ill. commercial zone in Indiana; DeWitt, Belmond, Conrad and their commercial zone in Iowa and St. Louis and St. Louis County, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bancroft Bag Corp., P.O. Box 307, West Monroe, La. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, – BOp, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 120618 (Sub- No. 2TA), filed August 25, 1977. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis, Ind. 46241. Applicant's representative: John R. Bagileo, 700 World Center Bldg., 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Aluminum castings*, from the plantsite of Central Foundry, a Division of General Motors Corp., located at or near Bedford, Ind., to Detroit, Mich., and the plantsite of General Motors Corporation and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich.; and Cleveland, Dayton, and Moraine, Ohio; (b) *scrap aluminum*, from the plantsite of General Motors Corporation and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Sagnaw, and Willow Run, Mich.; Lockport, N.Y.; and Cleveland, Dayton, and Moraine, Ohio, and the plantsite of Harry Davis & Son, Inc., located at or near Toledo, Ohio, and Detroit, Mich., to the plantside of Central Foundry, located at or near Bedford, Ind.; the plantsite of Barmet of Needmore, Inc., located at or near Needmore, Ind., and the plantsite of Wabash Alloys Co., located at or near Wabash, Ind.; (3) *brake drums, in the rough*, between the plantsite of Central Foundry, located at or near Bedford, Ind., and the plantsites of Buick Motor Division, located at or near Flint, Mich., and Chevrolet Motor Division, located at or near Buffalo, N.Y.; and (d) *reusable containers*, between the plantsite of General Motors Corp. and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich.; Lockport and Buffalo, N.Y.; and Cleveland, Dayton, and Moraine, Ohio, and the plantsite of Central Foundry located at or near Bedford, Ind., for 180 days. Supporting shipper(s): Central Foundry Division, General Motors Corp., Bedford, Ind. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 124078 (Sub-No. 745TA), filed September 13, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Missouri Portland Cement Company, 7711 Carondelet Ave., St. Louis, Mo. 63105, (J. A. Lynch). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 134094 (Sub-No. 7TA), filed September 12, 1977. Applicant: HEIGHT'S SERVICE, INC., 521 E. Nevada Ave., St. Paul, Minn. 55101. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehcile, over irregular routes, transporting: *Malt beverages, and related advertising materials, premiums, and malt beverage dispensing equipment* when moving in mixed loads with malt beverages, from St. Paul, Minn., to Lansing, Ill., under a continuing contract or contracts with the Vierk Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vierk Corporation, 16750 Chicago Ave., Lansing, Ill. 60438. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134686 (Sub-No. 1TA), filed September 12, 1977. Applicant: AMRAM ENTERPRISES, INC., 4823 Penn Avenue, Pittsburgh, Pa. 15224. Applicant's representative: Dr. Amram Onyundo (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Packages and parcels* (not exceeding 100 lbs. in weight) of general commodities, between Pittsburgh, Pa., and points in Ohio, under a continuing contract or contracts with Cinemette Corp. of America and Kaufmann's Dept. Store, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operting authority. Supporting shippers: Cinemette Corp. of America, 107 Sixth Street, Pittsburgh, Pa. 15229. Kaufmann's Dept. Store, 955 Reedsdale Street, Pittsburgh, Pa. 15212. Send protests to: John J. England, District Su-

pervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 134979 (Sub-No. 11TA), filed August 30, 1977. Applicant: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *Factory built fireplaces, factory built chimneys*, (2) *materials, parts and supplies* used in the manufacture of the commodities named in part (1) above (except commodities in bulk, in tank vehicles), and (3) *parts and accessories* for the commodities named in part (1) above, between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio and Dura-Vent Corp. at or near Redwood City, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (b) *pipe, duct, fittings and accessories* for air distribution systems and materials and supplies used in the manufacture and/or distribution thereof (except commodities in bulk, in tank vehicles), between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to transportation of shipments to be performed under a continuing contract, or contracts, with Manufacturers Systems, Inc. of Detroit Lakes, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Manufacturers Systems, Inc., 620 West Main Ave., Detroit Lakes, Minn. 56501. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 136989 (Sub-No. 17TA), filed September 9, 1977. Applicant: R. F. BOX, INC., 500 Kinley Ave., N.E., Albuquerque, N. Mex. 87107. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Aubuquerque, N.Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering* (except carpeting and rugs), from ports of entry on the International Boundary line between the United States and Canada at or near Champlain, N.Y., to points in California, Oregon, Washington, Montana, Idaho, Nevada, Arizona, New Mexico, Utah, Wyoming, Colorado, Texas, Oklahoma, Nebraska, and Kansas, for the account of Domco Industries, Ltd., Montreal, Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Domco Industries, Ltd., 1001 Yamaska Street, East Farnham, Province of Quebec, Canada, c/o E. Pat Naef, Supervisor of Traffic and Customs. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, S. W. Aubuquerque, N. Mex. 87101.

No. MC 138036 (Sub-No. 10TA), filed August 25, 1977. Applicant: J & S, Inc., P.O. Box 288, Indianola, Pa. 15051. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail drug and variety stores, *and equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between the facilities of Thrift Drug Division of J. C. Penney Co., Inc., in Atlanta Southern Industrial Park, Morrow (Clayton County), Ga., on the one hand, and, on the other, points in Oklahoma, under a continuing contract or contracts with Thrift Drug Division of J. C. Penney Company, Inc., at New York, N.Y., for 180 days. Supporting Shipper(s): Thrift Drug Division of J. C. Penney Company, Inc. 615 Alpha Drive, Pittsburgh, Pa. 15238. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 138741 (Sub-No. 36TA), filed September 8, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 W. 11th St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* from Broadview, Ill., to points and places in Mo., for 180 days. Supporting shipper: The Ceco Corp., 5601 W. 26th St., Chicago, Ill. 60650. Send protests to: Patricia Roscoe, Interstate Commerce Commission, Rm. 1386, 219 S. Dearborn St., Chicago, Ill. 60604.

No. MC 139091 (Sub-No. 22TA), filed September 12, 1977. Applicant: LOGAN MOTOR LINES, INC., 2829 Mays Street, P.O. Box 4265, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, NOI, (1) from the plantsite and storage facilities of Kitchens of Sara Lee at or near Deerfield, Ill., to points in Texas and (2) from the plantsite and storage facilities of Kitchens of Sara Lee at or near Deerfield, Ill., and Chicago, Ill., to points in Oklahoma, for 180 days. Supporting shipper: The Kitchens of Sara Lee, Deerfield, Ill. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139579 (Sub-No. 5TA), filed September 12, 1977. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, N.Y. 14094. Applicant's representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bags, from McIntyre, Ga., and Attapulgus, Ga., to North Tonawanda and Buffalo, N.Y., under a continuing contract or contracts with Meyers Chemicals, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Meyers Chemicals, Inc., 4245 Union Rd., Buffalo, N.Y. 14225. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 142205 (Sub-No. 6TA), filed August 30, 1977. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, Va. 22075. Applicant's representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Custom upholstered furniture*, from Sterling, Va., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas; and (2) *returned or rejected upholstered furniture*, and *equipment, materials and supplies* used in the manufacture of custom upholstered furniture, from the destination states listed above in (1) to Sterling, Va., under a continuing contract, or contracts, with Metrol Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Metro Manufacturing Co., P.O. Box 274, Herndon, Va. 22070. Send protests to: W. C. Hersman, District Supervisor, Room 1413, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 142495 (Sub-No. 1TA), filed August 15, 1977. Applicant: TERBAX CORP., P.O. Box 495, Hawthorne, N.J. 07507. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foam Packaging Materials*, from the facilities of Ampco Packaging, Inc., Jersey City, N.J. to points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and the District of Columbia, under a continuing contract or contracts with Ampco Packaging, Inc., Jersey City, N.J. (2) *plastic, packaging materials, winding boards, twine, paper articles, and machinery* (3) *materials, equipment and supplies*, used or useful in the manufacture and sale of the commodities named in (2), between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Hawthorne, N.J. on the one hand, and, on the other, points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New

Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and the District of Columbia (3), between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Chicago, Ill., on the one hand, and, on the other, points in the States of Minnesota, Wisconsin, Iowa, Missouri, Ohio, Indiana. (4) between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Hayward, Calif. on the one hand, and, on the other, points in the States of Washington, Oregon, Arizona, Utah (5) between the warehousing distribution and manufacturing facilities of the Baxter Corp., Shelby, N.C., on the one hand, and, on the other, points in the States of Florida, South Carolina, Georgia, Virginia, North Carolina, Alabama, Louisiana and Tennessee under a continuing contract or contracts with the Baxter Corp., Hawthorne, N.J. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): the Baxter Corp., P.O. Box 495, Hawthorne, N.J. 07507. Ampco Packaging, Inc., 225 New York Avenue, Jersey City, N.J. 07307. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 142715 (Sub-No. 6TA), filed September 9, 1977. Applicant: LANERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, Minn. 55075. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles* distributed by meat packing plants (except hides and commodies in bulk), from the plantsites of Geo. A. Hormel & Co., at Austin, Minn.; Scottsbluff, Nebr.; Fort Dodge, Iowa; and Fremont, Nebr., to points in Georgia, North Carolina, South Carolina, and Tennessee, restricted to product originating at the named origins and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 142808 (Sub-No. 1TA), filed August 23, 1977. Applicant: SOUTH BAY TRUCK LINE, INC., 1040 Hermosa Avenue, Hermosa Beach, Calif. 90254. Applicant's representative. Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel fence posts, scrap, and steel building materials*, between McMinnville, Oreg., on the one hand, and, on the other, points in that part of the United States on and west of a line beginning with the mouth of the Mississippi River at the Gulf of Mexico and continuing north along the Mississippi River to the southern boundary of Itasca County, Minn., thence along the southern boundary of Itasca County to the eastern boundary line of Itasca County to the eastern boundary line of Koochiching County, Minn., and thence northward along the eastern boundary line of Koochiching County to ports of entry on the international boundary line between the United States and Canada, under a continuing contract with Cascade Steel, Rolling Mills, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cascade Steel, Rolling Mills, Inc., 3200 North Highway 99 West, P.O. Box 687, McMinnville, Oreg. 97128. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142910 (Sub-No. 3TA), filed August 31, 1977. Applicant: NORMAN G. DAY, doing business as Day Express, 3829½ Camelot Lane, Columbus, Ind. 47201. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, Ind. 46224. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Window shades and parts* related to the manufacture and installation of window shades, between the plantsite of Breneman, Inc., located at or near Madison, Ind., on the one hand, and, on the other, Muskegon, Mich., under a continuing contract or contracts with Breneman, Inc., for 180 days. Supporting shipper(s): Breneman, Inc., 1133 Sycamore Street, Cincinnati, Ohio 45210. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143094 (Sub-No. 1TA), filed September 13, 1977. Applicant: ADS TRANSPORTATION, INC., 4 Kent Road, York, Pa. 17402. Applicant's representative: Jay L. Rosenbluth, 10th Floor, 1201 Chestnut Street, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum slabs, t-ingots, billets, and sows*, to transport as a contract carrier, from Eastalco Aluminum Co., Route 9, Frederick, Md., on the one hand, over irregular routes to Mill Products Division of Howmet Corp., Manheim Pike, Lancaster, Lancaster County, Pa., on the other hand, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howmet Aluminum Corp., 475 Steamboat Road, Greenwich, Conn. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 143646 (Sub-No. 1TA), filed September 1, 1977. Applicant: KEITH BOTKINS TRUCKING, INC., 112 West Rollins Street, Moberly, Mo. 65270. Applicant's representative: Thomas P. Rose, Jefferson Building, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Randolph County, Mo., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-Missouri Coal Co., Huntsville, Mo. 65259; Coal Creek Fuel Co., Inc., R.R. No. 1, Higbee, Mo. 65257. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 143670TA, filed September 1, 1977. Applicant: HAPPY HAULERS, LTD., 315 A Avenue East, Oskaloosa, Iowa 52577. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately five statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143715TA, filed September 13, 1977. Aplicant: TERRENS POLESHUCK, 1601 Highland Avenue, Cinnaminson, N.J. 08077. Applicant's representative: John B. Mathews, Professional Building, 313 East Broad Street, Palmyra, N.J. 08065. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchant seamen*, together with their baggage, in vehicle limited to not more than eight (8) persons, excluding driver, between Eagle Point, Westville, N.J.; Philadelphia, Pa.; Big Stone Beach, Milford, Del.; and points along the Delaware River in New Jersey, Pennsylvania, and Delaware, under a continuing contract or contracts with B. H. Sobelman & Co., Inc., 248 Bourse Building, Philadelphia, Pa. 19106. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-29021 Filed 9-30-77;8:45 am]

[7035-01]

[Notice No. 124TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATION

SEPTEMBER 26, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than October 18, 1977. One copy of the protest must be served on the applicant, or its authorized representatives, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 312TA), filed September 7, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: John Carter, 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Savannah, Ga., to points in Florida, Georgia, South Carolina, North Carolina, Kentucky, Tennessee, Alabama, and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately seven statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 19105 (Sub-No. 46TA), filed September 1, 1977. Applicant: FORBES TRANSFER CO., INC., P.O. Box 3544, Wilson, N.C. 27893. Applicant's representative: Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, N.C. 27601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiber mulch* from Nash County, N.C., to points in the states of South Carolina, Georgia, Tennessee, Kentucky, West Virginia, and Virginia, for 180 days. Supporting shipper(s): Southern Seeds, Inc., P.O. Box 309, Middlesex, N.C. 27557. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 43038 (Sub-No. 468TA), filed September 12, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Avenue, Madison, Heights, Mich. 48071; E. Phillips Malone, 3800 Frederica Street, Owensboro, Ky. 42301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movements, in truckaway service, from the plant sites or storage facilities of General Motors Corp. located at Detroit, Mich., to points in the State of Nebraska, for 180 days. Supporting shipper(s): General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090; E. R. Wiseman, Director, Transportation Economics. Send protests to: Erma W. Gray, Secretary of the Detroit ICC Office, Bureau of Operations, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette, Detroit, Mich. 48226.

No. MC 51146 (Sub-No. 517TA), filed September 2, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gift cheese paks*, from Marshfield, Wis., to points in Arizona, California, Colorado, New Mexico, Nevada, Oregon, and Washington, for 180 days. Supporting shipper(s): Figi's, Inc., 630 South Central Avenue, Marshfield, Wis. 54449 (James E. Coleman). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 59117 (Sub-No. 57TA), filed September 9, 1977. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, 101 East Excelsior, Vinita, Okla., 74301. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent catalyst*, in bulk, from Coffeyville, Kans., to points in Arkansas, Colorado, Illinois, Indiana, Louisiana, Minnesota, Mississippi, Nebraska, New Mexico, Oklahoma, Texas, and Wisconsin, for 180 days. Supporting shipper(s): Easttown Technical Co., 46 Darby Road, Paoli, Pa. 19301. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.

No. MC 85970 (Sub-No. 10TA), filed September 7, 1977. Applicant: SARTAIN TRUCK LINE, INC., 1354 North 2nd Street, P.O. Box 7237, Memphis, Tenn. 38107. Applicant's representative: Robert L. Baker, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and materials, equipment and supplies* used in the manufacture of containers, between the plantsite and storage facilities of Tote Systems, Division of Hoover Ball & Bearing Co., in Dyer County, Tenn., on the one hand, and, points in the United States (except Alaska and Hawaii), on the other, for 180 days. Supporting shipper(s): Tote Systems, Division of Hoover Ball & Bearing Co., P.O. Box 456, 1910 Sylvan Road, Dyersburg, Tenn. 38024. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 206, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 107403 (Sub-No. 1033TA), filed September 6, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., Vice President—Traffic (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles from the facilities of United States Steel Corp., at Haverhill, Scioto County, Ohio, to all points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the above-named destination territory to the above-named origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 1035 TA), filed September 9, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Louisville, Ky., to Riverside, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up

to 90 days of operating authority. Supporting shipper(s): Chevron U.S.A., Inc., 575 Market Street, Room 2510, San Francisco, Calif. 94120. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111045 (Sub-No. 147TA), filed September 8, 1977. Applicant: REDWING CARRIERS, INC., P.O. Box 426, 7809 Palm River Road, Tampa, Fla. 33601. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Pascagoula, Miss.; to Alabama and Louisiana, restricted against traffic originating at First Chemical Co., Pascagoula, Miss., for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): American Cyanamid Co., Berdan Avenue, Wayne, N.J. 07470. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

No. MC 111941 (Sub-No. 25TA), filed September 9, 1977. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, Ind. 46943. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Indianapolis, Ind., to Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, Mo. 63118. Send protests to: J. G. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 112298 (Sub-No. 3TA), filed September 7, 1977. Applicant: RAY'S GARAGE, INC., 14429 W. Highway 24, Hales Corners, Wis. 53130. Applicant's representative: Michael J. Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled aerial work platforms*, on drop-deck trailer equipment equipped with a hydraulic operated winch and a hydraulic unloading platform, from the plant and warehouse facilities of Krause Mfg. Co., Inc., at Milawukee, Wis., to points in the United States, except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Krause Mfg. Co., Inc., 3465 West Mill Road, Milwaukee, Wis. (David W. Brandt). Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 114045 (Sub-No. 477TA), filed September 12, 1977. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart, P.O. Box 61228, D/FW Airport, Tex. 75261. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alumina, magnesium hydroxide and calcium carbonate* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Millsboro, Del., to San Leandro, Calif., and points in Texas, for 180 days. Supporting shipper(s): William H. Rorer, Inc., Barcroft Co., 500 Cirginia Drive, Fort Washington, Pa., 19034. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 116254 (Sub-No. 186 TA), filed September 8, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Gulfport, Miss., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plastifax, Inc., P.O. Box 1056, Gulfport, Miss. 39501. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Bldg., Birmingham, Ala. 35203.

No. MC 117613 (Sub-No. 20TA), filed September 6, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, Md. 21740. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils* from Washington, D.C., and its commercial zones to Hagerstown, Md., and its commercial zones, under a continuing contract, or contracts, with Basore Oil Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Basore Oil Co., Inc., 11 Edgewood Drive, Hagerstown, Md. 21740. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 117883 (Sub-No. 221TA), filed September 12, 1977. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Thomas R. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pretzels*, from the plantsite and/or storage facilities of United Products Co. at or near Smithsburg, Md., to Bonner Springs, Kans., and Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vincent E. Petti, president, United Products Co., 2254 Gulf Gate Drive, Sarasota, Fla. 33581. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio. 45202.

No. MC 123788 (Sub-No. 3TA), filed September 12, 1977. Applicant: AMERICAN-WESTERN COMPANY, INC., P.O. Box 430, Dallas, Oreg. 97338. Applicant's representative: Earle V. White, White & Southwell, 2400SS. West Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranes*, and *crane parts* and *accessories*, between points in all States and the District of Columbia, excluding Alaska and Hawaii; and to and from Canada through ports of entry on the U.S.-Canada boundary, under a continuing contract, or contracts, with Morrow Crante Co., for 180 days. Supporting shipper(s): Morrow Crant Co., P.O. Box 3306, Salem, Oreg. 97302. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Oreg. 97204.

No. MC 124887 (Sub-No. 37 TA), filed September 7, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel-articles*, from Chatham County, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper(s): Anderson Shipping Co., P.O. Box 9805, Savannah, Ga. 31402; D. J. Powers Co., Inc., P.O. Box 9239, Savannah, Ga. 31402; Georgia Ports Authority, 235 Peachtree Street NE., Atlanta, Ga. 30303; John S. James Co., P.O. Box 2166, Savannah, Ga. 31402. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 124896 (Sub-No. 25 TA), filed September 8, 1977. Applicant: WILLIAMSON TRUCK LINE, INC., Thorne & Ralson Streets, P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Banquet Foods Corp., located at Carrollton, Macon, and Marshall, Mo., to points in North Carolina and Charleston, Columbia, Florence, Greenville, Orangeburg, Spartansburg, and Sumter, S.C., and points in the commercial zones of the above specified destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Banquet Foods Corp., 100 N. Broadway, St. Louis, Mo. 63102. Send protests to: Archie W. Andrews, Interstate Commerce Commission, 624 Federal Building, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 126118 (Sub-No. 51 TA), filed September 9, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Paul, Minn., and its commercial zone to Knoxville, Tenn., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Houston Ball Manager, Raymonds' Distributing Co., Inc., 5502 R. Middlebrook Drive, Knoxville, Tenn. Send protests to: Max H. Johnston District Supervisor, 285 Federal Building & Court House 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 127187 (Sub-No. 27 TA), filed September 9, 1977. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, Minn. 56537. Applicant's representative: Greg C. Johnson, 1728 Industrial Park Boulevard, Fergus Falls, Minn. 56537. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds, and animal and poultry feed ingredients*, from Culbertson, Mont., to points in North Dakota, South Dakota, Wyoming, Minnesota, Wisconsin, Iowa, Nebraska, Illinois, Kansas, Missouri, and Indiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Continental Grain Co., 277 Park Avenue, New York, N.Y. 10017. Send protests to: Ronald R. Mau District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 127303 (Sub-No. 27 TA), filed September 8, 1977. Applicant: ZELLMER TRUCK LINES, P.O. Box 996, Granville, Ill. 61326. Applicant's representative: Dwight L. Koerber, Jr., 666 11th Street NW., No. 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting; *Insulation, application machines, parts and supplies therefor*, between Minonk, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s); American Cellulose Manufacturing, Inc., Route 1, Box 162, Minonk, Ill. 61760. Send protests to; Patricia Roscoe, Transportation Assistant, Interstate Commerce Commission, Room 1386, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 133095 (Sub-No. 173 TA), filed September 7, 1977. Applicant; TEXAS-CONTINENTAL EXPRESS, INC. P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, Tex. 76039. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts*, from the facilities of Questor Corporation at or near Goldsboro, N.C., to points in that part of the United States in and west or Arkansas, Iowa, Louisiana, Minnesota, and Missouri (except Alaska and Hawaii), for 180 days. Supporting shipper(s): Questor Corp., AP Parts Company Division, P.O. Box 1040, Toledo, Ohio 43697. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 135072 (Sub-No. 9TA), September 8, 1977. Applicant: HEATER TRUCKING, INC., 6887 Versailles Road, North Evans, N.Y. 14112. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such mrchandise* as is dealt in by retail establishments, and materials and supplies used in conducting such business, (1) from the storage facilities of Century Houseswares, Inc., at Hamburg, N.Y., to Pittsfield, Mass., and (2) from points in Massachusetts, to the storage facilities of Century Housewares, Inc., at Hamburg, N.Y., under a continuing contract, or contracts, with Century Housewares, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Century Housewares, Inc., S-5225 Southwestern Boulevard, Hamburg, N.Y. 14075. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

NO. MC 135874 (Sub-No. 92 TA), filed September 9, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: K. O. Petrick, 550 E. 5th Street South, South St. Paul, Minn. 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Pinckneyville, Ill., to Ortonville, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, N.C. 27102. Send protests to: Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 136342 (Sub-No. 12,TA), filed September 8, 1977. Applicant: JACKSON & JOHNSON, INC., Route 31, Box 327, Savannah, N.Y. 13146. Applicant's representative: S. Michael Richards, Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen beef*, between Rochester, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, under a continuing contract, or contracts, with Double B Packing Corp., for 180 days. Supporting shipper(s): Double B Packing Corp., 571 Colfax Street, Rochester, N.Y. 14606. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse & Federal Building, 100 South Clinton Street, Room 1259, Syracuse, N.Y. 13202.

No. MC 140484 (Sub-No. 22 TA), filed September 9, 1977. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, Fla. 33901. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1036 15th St. NW., Washington, D.C. 20005. Auhtority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay tile, glazed*, from Lawrenceburg, Ky., to points in California, Oregon, Washington, Nevada, Arizona, New Mexico, Colorado, Utah, Idaho, Montana and Wyoming, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Florida Tile, Sikes Corp., P.O. Box 81, Lawrenceburg, Ky. 40342. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 301, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

No. MC 140484 (Sub-No. 23 TA), filed September 9, 1977. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, Fla. 33901. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay tile, glazed*, from Lakeland, Fla., to points in California, Oregon, Washington, Nevada, Arizona, New Mexico, Colorado, Utah, Idaho, Montana, and Wyoming, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA

seeking up to 90 days of operating authority. Supporting shipper(s): Florida Tile—Sikes Corp., P.O. Box 81, Lawrenceburg, Ky. 40342. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

No. MC 143636 (Sub-No. 1 TA), filed September 9, 1977. Applicant: RON SMITH TRUCKING, INC., R.R. No. 3, Arcola, Ill. 61910. Applicant's representative: John L. Junkins, R.R. No. 3, Arcola, Ill. 61910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Douglas, Edgar and Vermillion Counties, Ill., to the facilities of The Public Service Company of Indiana Inc., in Vermillion and Vigo Counties, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. P. Masselink Fuel Manager, Public Service Co., of Indiana, Inc., 1000 E. Main Street, Plainfield, Ind. 46168. Send protests to: District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 143669TA, filed September 1, 1977. Applicant: TOWPICH EXPRESS LINES, LTD., 2840 58th Avenue SE., Calgary, Alberta, Can. T2C OB8. Applicant's representative: George Robert Crotty, Jr., 400 First National Bank Bldg., Great Falls, Mont. 59401, Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural fertilizers, herbicides, fungicides, pesticides, insecticides* and *ingredients thereof*, in ocean going containers on specially designed wheeled under-carriages, having a prior water-rail move in foreign commerce from the port of entry at the United States-Canada International Boundary line at or near Sweetgrass, Mont., to points in Montana, Idaho, Washington, and Utah, for 180 days. Applicant intends to tack with its Canadian authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geoff Hogan, Manager Western Region, Manchester Liners Limited, No. 406, 131–9 Avenue SW., Calgary, Alberta, Canada. Geoff Hogan, Manager Western Region, Canadian Pacific Ships, No. 406, 131–9 Avenue SW., Calgary, Alberta, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143694TA, filed September 12, 1977. Applicant: PRESTON W. ALBERT, d.b.a. TIGATOR TRUCKING SERVICE, Rt. 1, Box 18, Talbot Road, Plaquemine, La. 70764. Applicant's representative: J. H. Campbell, Jr., P.O. Box 1748 (8686 Anselmo Lane), Baton Rouge, La. 70821. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beef*, from Amarillo, Tex., to Baton Rouge, La., restricted to a transportation service performed under a continuing contract, or contracts, with Associated Grocers, Inc., for 180 days. Supporting shipper(s): Associated Grocers, Inc. P.O. Box 1748, Baton Rouge, La. 70821. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Building, New Orleans, La. 70113.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29022 Filed 9-30-77;8:45 am]

[7035-01]

IRREGULAR-ROUTE COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

SEPTEMBER 23, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 13, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 60014 (Sub-No. E33) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment, is performed by the consignor or consignee, or both, between points in New Jersey, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway to be eliminated.

No. MC 60014 (Sub-No. E37) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment, is performed by the consignor or consignee, or both, between those points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction New Jersey Highway 284, thence along New Jersey Highway 284 to the New Jersey-New York State line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the United States-Canada International Boundary line, and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 15/15A, thence along Vermont Highway 15/15A to junction Vermont Highway 15, thence along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 106, thence along Vermont Highway 106 to junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line, those in New Hampshire on and northeast of a line beginning at the Vermont-New Hampshire State line, and extending along New Hampshire Highway 12/103, thence along New Hampshire Highway 12/103 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, and those in Rhode Island on and north of Interstate Highway 6. The purpose of this filing is to eliminate the gateways of New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and

points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to correct the territorial description and the gateway elimination territory.

No. MC 60014 (Sub-No. E40) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont on and east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to junction Rhode Island Highway 102, thence along Rhode Island 102 to junction U.S. Highway 1-A, thence along U.S. Highway 1-A to Rhode Island Sound, and those in Massachusetts on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to correct the gateway territorial description.

No. MC 60014 (Sub-No. E45) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., Greenwich, Conn., and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E46) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 24, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in New Hampshire, Rhode Island, and those in Vermont on and east of a line beginning at Champlain, and extending along U.S. Highway 7 to junction Vermont Highway 103, thence along Vermont Highway 103 to junction Vermont Highway 155, thence along Vermont Highway 155 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E49) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, Inc., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which by reason of size or weight require the use of special equipment, from points in New York to points in Kentucky, Mississippi, Alabama, those in Tennessee on and west of a line beginning at the Virginia-Tennessee State line, and extending along Tennessee Highway 33 to junction Tennessee Highway 31, thence along Tennessee Highway 31 to junction U.S. Highway 11W, thence along U.S. Highway 11W to junction U.S. Highway 25E, thence along U.S. Highway 25E to junction Tennessee Highway 32, thence along Tennessee Highway 32 to junction U.S. Highway 11W, thence along U.S. Highway 11W to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E52) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in New York on and south of a line beginning at Lake Erie and extending along U.S. Highway 20 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 206, thence along New York Highway 206 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 199, thence along New York Highway 199 to junction U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, to those points in Maine on and east of a line beginning at the United States-Canada international boundary line and extending along Maine Highway 11 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction U.S. Alternate Highway 1, thence along U.S. Alternate Highway 1 to junction U.S. Highway 1, thence along U.S. Highway 1 to Penobscot Bay. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., Greenwich, Conn., and points in Massachusetts on and east of U.S. Highway 5, and points in Massachusetts within 35 miles of Boston.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E68) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 15, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee, or both, between those points in Michigan on and north of a line beginning at Lake Huron line and extend-

ing along Michigan Highway 21 to junction Michigan Highway 78, thence along Michigan Highway 78 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Michigan Highway 12, thence along Michigan Highway 12 to junction Michigan Highway 66, thence along Michigan Highway 66 to the Michigan-Indiana State line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the United States-Canada International boundary line and extending along U.S. Highway 5, to junction U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; Pennsylvania; points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E69) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 8, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Virginia, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont on and east of a line beginning at the Canada-United States international boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to the junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Massachusetts on and east of a line beginning at the Massachusetts-Connecticut State line and extending along Massachusetts Highway 8 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Massachusetts Highway 9/8A, thence along Massachusetts Highway 9/8A to junction Massachusetts Highway 116, thence along Massachusetts Highway 116 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to the Massachusetts-Vermont State line, and those in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to junction U.S. Highway 1A, thence along U.S. Highway 1A to Narragansett Bay. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E81) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 21, 1975, and republished, as corrected this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight, requires the use of special equipment, between those points in West Virginia on, north and east of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway Alternate Highway 50 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 5, thence along West Virginia Highway 5 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line, on the one hand, and, on the other, those points in Michigan, and between points in West Virginia, on the one hand, and, on the other, those points in the Upper Peninsula of Michigan on and north of a line beginning at the United States-Canada international boundary line and extending along Interstate Highway 75 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Michigan-Wisconsin State line. The purpose of this filing is to eliminate the gateways of Brooke, Hancock, Marshall, and Ohio Counties, W. Va.; Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; and points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and, on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E84) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 8, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island, to those points in Alabama on and west of a line beginning at the Tennessee-Alabama State line and extending along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction Alabama Highway 219, thence along Alabama Highway 219 to junction Alabama Highway 41, thence along Alabama Highway 41 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E85) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Atlantic Ocean and extending along Rhode Island Highway 2/112 to junction Rhode Island Highway 112, thence along Rhode Island Highway 112 to junction Rhode Island Highway 3, thence along Rhode Island Highway 3 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to the Rhode Island-Massachusetts State line, to points in Alabama. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No MC 60014 (Sub-No. E86) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment so that or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to those in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 216 to junction Tennessee Highway 52, thence along Tennessee Highway 52 to junction Tennessee Highway 136 to junction Tennessee Highway 136 to junction Tennessee Highway 42, thence along Tennessee Highway 42 to junction Highway 70S, thence along U.S. Highway 70S to the junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway Alt. 41, thence along U.S. Highway Alt. 41 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateways of Boston, Mass.; and points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and point in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E87) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Massachusetts-Rhode Island State line and extending along Rhode Island Highway 24 to junction Rhode Island Highway 114, thence along Rhode Island Highway 114 to junction Rhode Island Highway 103, thence along Rhode Island Highway 103 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Rhode Island Highway 146, thence along Rhode Island Highway 146 to the Rhode Island-Massachusetts State line, to points in Tennessee. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Masachusetts on the east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E88) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to those points in Kentucky on and west of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Highway 119 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to state the correct gateway territory.

No. MC 60014 (Sub-No. E89) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 101 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Interstate Highway 295, thence along Interstate Highway 295 to junction Rhode Island Highway 2, thence along Rhode Island Highway 2 to junction Rhode Island Highway 4, thence along Rhode Island Highway 4 to junction Rhode Island Highway 138, thence along Rhode Island Highway 138 to the Rhode Island-Massachusetts State line, to points in Kentucky. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to state the correct gateway territory.

No. MC 60014 (Sub-No. E114) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, supplies, and equipment*, incidental to, or used in the construction, development, and production of natural gas, and petroleum, the transportation of which, by reason of their size or weight, requires the use of special equipment, between points in Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Marshall, Lyon, Livingston, Crittenden, Hopkins, Union, Henderson, Daviess, McLean, Muhlenberg, Butler, Ohio, Hancock, Breckinridge, Grayson, Edmonson, Warren, Hardin, Meads, Nelson, Bullitt, Jefferson, Caldwell, Spencer, Anderson, Shelby, Oldham, Trimble, Henry, Carroll, Gallatin, Owen, Franklin, Woodford, Fayette, Scott, Grant, Boone, Kenton, Campbell, Pendelton, Harrison, Bourbon, Clark, Nicholas, Robertson, Bracken, Mason, Fleming, Bath, Morgan, Johnson, Pike, Martin, Lawrence, Elliott, Carter, Boyd, Greenup, and Lewis County, Ky., on the one hand, and, on the other, points in Delaware, District of Columbia, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, points in Massachusetts within 35 miles of Boston, and points in Virginia east of a line beginning at the West Virginia-Virginia State line. The purpose of this filing is to Highway 16 to the Virginia-Tennessee State line. The purpose of this filing is to eliminate the gateways of (1) West Virginia; (2) Pennsylvania; (3) New York; and (4) points in Massachusetts within 35 miles of Boston; (5) points in Massachusetts east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway.

No. MC 60014 (Sub-No. E118) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which by reason of size or weight require the use of special equipment, from points in Pennsylvania to points in Mississippi, Kentucky, Alabama, and those in Tennessee on and west of a line beginning at the Tennessee-Virginia State line and extending along Tennessee Highway 63 to junction U.S. Highway 25W, thence along U.S. Highway 25W to junction Tennessee Highway 95, thence along Tennessee Highway 95 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Tennessee Highway 30, thence along Tennessee Highway 30 to junction U.S. Highway 411, thence

along U.S. Highway 411 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateway of Wheeling, W. Va.

NOTE.—The purpose of this filing is to correct the E number to read E118 instead of E24 and correct the territorial description.

No. MC 60014 (Sub-No. E120) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and August 25, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and south of Interstate Highway 80 on the one hand, and, on the other, those points in Vermont on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, Mass.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E122) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 25, 1975 as (Sub-No. E20), and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 171 to junction Pennsylvania Highway 247, thence along Pennsylvania Highway 247, to junction Pennsylvania Highway 348, thence along Pennsylvania Highway 348 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, those points in Rhode Island on and east of Interstate Highway 95. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E125) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 1, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William R. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing and insulating material*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor, or consignee, or both (except in bulk), from the plantsite of Johns Manville Perlite Corp., Rockdale, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia (Pennsylvania; points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn., and points in Massachusetts within 35 miles of Boston)*; *Cement pipe* containing asbestos fibre, requiring special equipment, restricted so that, or provided that the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee or both, from Waukegan, Ill., to points in Virginia (West Virginia)*; Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, those in Massachusetts on and east of a line beginning at the Vermont-Massachusetts state line and extending along Massachusetts Highway 8 to junction Masachusetts Highway 2, thence along Massachusetts Highway 2 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to junction Massachusetts Highway 116, thence along Massachusetts Highway 116 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to junction Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Masachusetts Highway 112, thence along Massachusetts Highway 112 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Massachusetts Highway 8, thence along Massachusetts Highway 8 to the Massachusetts-Connecticut State line; and those in Vermont on and east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 5 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 15, thence along Vermont Highway 15 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 4, thence along Vermont Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 8A, thence along Vermont Highway 8A to the Vermont-Massachusetts State line, and the District of Columbia. (points in Pennsylvania on and west of U.S. Highway 15; and points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E136) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of September 19, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William R. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment, between those points in Ohio on and west of a line beginning at Lake Erie and extending along Ohio Highway 91 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Ohio Highway 88, thence along Ohio Highway 88 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, points in Rhode Island, those in Massachusetts within 35 miles of Boston, Mass., those in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending along U.S. Highway 5 to junction Interstate Highway 91, thence along Interstate Highway 91 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to junction Connecticut Highway 85, thence along Connecticut Highway 85 to the Rock Island Sound, those in New Hampshire on and east of a line beginning at the Vermont-New Hampshire State line and extending along U.S. Highway 302 to junction New Hampshire Highway 112, thence along New Hampshire Highway 112 to junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction New Hampshire Highway 3A/25, thence along New Hampshire Highway 3A/25 to junction New Hampshire Highway 3A, thence along New Hampshire Highway 3A to junction New Hampshire Highway 104, thence along New Hampshire Highway 104 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New Hampshire Highway 11, thence along New Hampshire Highway 11 to junction New Hampshire 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 123A, thence along New Hampshire Highway 123A to junction New Hampshire Highway 123, thence along New Hampshire Highway 123 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 35 miles of Boston.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E146) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, as E83, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to points in Mississippi. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston, Greenwich, Conn., points in New York within 10 miles of Greenwich, Conn., and Wheeling and Beechbottom, W. Va., and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E311) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 17, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight require the use of special equipment or handling, between points in Indiana on the one hand, and, on the other, points in New Hampshire, Rhode Island, those points in Massachusetts within 35 miles of Boston, and those points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 83 to junction Connecticut Highway 190, thence along Connecticut Highway 190 to junction Connecticut Highway 32, thence along Connecticut Highway 32 to Long Island Sound. The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, thence along north Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15; thence along U.S. Highway 15 to Trout Run, thence along U.S. Highway 15 to the Pennsylvania-New York State line; New York; and points in Massachusetts within 35 miles of Boston.

NOTE.—The purpose of this correction is to state the correct Sub-No. E311 previously published as E23.

No. MC 60014 (Sub-No. E312), (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 23, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Indiana, on the one hand, and, on the other, those points in New Hampshire, Rhode Island, Connecticut, Maine, Vermont on and east of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 5 to junction U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line, and Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along Massachusetts Highway 8A to the junction of Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Massachusetts Highway 112, thence along Massachusetts Highway 112 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; Pennsylvania; points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct Sub number E312 instead of E28.

No. MC 61825 (Sub-No. E1066), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along Texas Highway 125, thence west along Texas Highway 125 to junction Texas Highway 11, to junction U.S. Highway 380, to junction Texas Highway 199, to junction U.S. Highway 82, to junction Texas Highway 116 to the New Mexico-Texas State line, to points in Pennsylvania on and east of a line beginning at the Pennsylvania-West Virginia State line, and extending along Pennsylvania Highway 166 to junction Pennsylvania Highway 51, to junction Pennsylvania Highway 8, to junction Pennsylvania Highway 68, to junction U.S. Highway 322, to junction Pennsylvania Highway 208, to junction Pennsylvania Highway 36, to junction U.S. Highway 62 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1067), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, California, Nevada, New Mexico, and Texas, and points in Arkansas on and west and south of a line and beginning at the Arkansas-Tennessee State line and extending along Arkansas Highway 137, thence west along Arkansas Highway 137 to junction Arkansas Highway 18, to junction Arkansas Highway 39, to junction Arkansas Highway 14, to junction Arkansas Highway 9, to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line; those points in Oklahoma on and south and west of a line beginning at the Oklahoma-Arkansas State line and extending along Interstate Highway 40 to junction U.S. Highway 283, to junction U.S. Highway 270, to junction U.S. Highway 64, thence along U.S. Highway 64 to the Oklahoma-Colorado State line; points in Colorado on and south and west of a line beginning at the Colorado-Oklahoma State line, and extending along U.S. Highway 385 to junction U.S. Highway 160, to junction Colorado Highway 101, to junction U.S. Highway 50, to junction U.S. Highway 85, to junction U.S. Highway 24, to junction Colorado Highway 13, to junction Colorado Highway 64, thence along Colorado Highway 64 to the Colorado-Utah State line; points in Utah on and south and west of a line beginning at the Utah-Colorado State line, and extending along U.S. Highway 40, to junction Interstate Highway 15 to the Utah-Idaho State line, to points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 220, thence north along U.S. Highway 220 to junction U.S. Highway 15 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1068), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, Arkansas, California, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and those points in Kansas on and west of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 169, thence north along U.S. Highway 169 to junc-

tion U.S. Highway 160, to junction Kansas Highway 99, to junction U.S. Highway 54, to junction U.S. Highway 77, to junction Kansas Highway 4, to junction Kansas Highway 15, to junction U.S. Highway 40, to junction U.S. Highway 183, to junction U.S. Highway 24, to junction U.S. Highway 83, to junction U.S. Highway 36, thence along U.S. Highway 36 to the Kansas-Colorado State line; those points in Colorado on and west of a line beginning at the Colorado-Kansas State line, and extending along U.S. Highway 36 to junction Colorado Highway 71, to junction U.S. Highway 34, to junction U.S. Highway 287, to junction Colorado Highway 14, to junction Colorado Highway 125, thence along Colorado Highway 125 to the Colorado-Wyoming State line; points in Wyoming on and west of a line beginning at the Wyoming-Colorado State line, and extending along Wyoming Highway 230, to junction Wyoming Highway 130, to junction Interstate Highway 80, to junction Wyoming Highway 789, to junction Wyoming Highway 120, to junction U.S. Highway 310, thence along U.S. Highway 310 to the Wyoming-Montana State line; points in Montana on and west of a line beginning at the Montana-Wyoming State line, and extending along U.S. Highway 310 to junction U.S. Highway 10, to junction U.S. Highway 87, to junction U.S. Highway 191 to the Canadian-United States International Boundary line, to points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending south along Interstate Highway 81 to junction U.S. Highway 15 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1069), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, from points in Arkansas, Kansas, Oklahoma, and Texas to New York, N.Y. The purpose of this filing is to eliminate the gateway of Smyth County, Va., Lynchburg, Va. and Baltimore, Md.

No. MC 61825 (Sub-No. E1070), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* from points in Arizona, Arkansas, California, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and those points in Kansas on and south and west of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 66, to junction Kansas Highway 26, to junction Kansas Highway 96, to junction Kansas Highway 99, to junction U.S. Highway 54, to junction U.S. Highway 77, to junction Kansas Highway 4, to junction U.S. Highway 81, to junction U.S. Highway 40, to junction U.S. Highway 183, to junction U.S. Highway 24, to junction Kansas Highway 27, to junction U.S. Highway 36, thence along U.S. Highway 36 to the Kansas-Colorado State line; points in Colorado on and south and west of a line beginning at the Colorado-Kansas State line and extending along U.S. Highway 36 to junction U.S. Highway 34, to junction U.S. Highway 40, to junction Colorado Highway 789, thence along Colorado Highway 789 to the Colorado-Wyoming State line; points in Wyoming on and west of a line beginning at the Wyoming-Colorado State line, and extending along Wyoming Highway 789 to junction Interstate Highway 80, to junction U.S. Highway 187, to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Idaho State line; points in Idaho on and west of a line beginning at the Idaho-Wyoming State line, and extending along U.S. Highway 26 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Idaho-Montana State line; points in Montana on and west of a line beginning at the Montana-Wyoming State line, and extending along U.S. Highway 91, thence along U.S. Highway 91 to the Canadian-United States International Boundary line, to points in New York on and east of a line beginning at the Pennsylvania-New York State line, and extending along New York Highway 79 to junction New York Highway 7, to junction New York Highway 50, to junction New York Highway 32, to junction U.S. Highway 4 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1071), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P. O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: ' *New furniture,* from points in the states of Arizona, California, on, south and west of a line beginning at the Arkansas-Missouri State line, and extending along Arkansas Highway 25 and extending west along Arkansas Highway 25 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line; those points in Oklahoma on and south and west of a line beginning at the Oklahoma-Arkansas State line, and extending along Interstate Highway 40, thence along Interstate Highway 40 to the Oklahoma-Texas State line; points in Texas on and south and west of a line beginning at the Texas-Oklahoma State line, and extending along Interstate Highway 40 to junction U.S. Highway 83, to junction Texas Highway 281, thence along Texas Highway 281 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Texas-New Mexico State line; points in New Mexico on and south and west of a line beginning at the New Mexico-Texas State line, and extending along U.S. Highway 87, thence along U.S. Highway 87 to the New Mexico-Colorado State line; points in Colorado on and south and west of a line beginning at the Colorado-New Mexico State line, and extending along U.S. Highway 87 to junction Colorado Highway 69, to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Utah State line; points in Utah on and south and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 50, to junction Utah Highway 36, to junction Utah Highway 199, to junction unnumbered highway, to junction Interstate Highway 80, thence along Interstate Highway 80 to the Utah-Nevada State line; points in Nevada on and south and west of a line beginning at the Nevada-Utah State line, and extending along Interstate Highway 80 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Nevada-Idaho State line; points in Idaho on and south and west of a line beginning at the Idaho-Nevada State line, and extending along U.S. Highway 93 to junction U.S. Highway 30, to junction U.S. Highway 20, to junction Interstate Highway 80-N, thence along Interstate Highway 80-N to the Idaho-Oregon State line; points in Oregon on and south and west of a line beginning at the Oregon-Idaho State line, and extending along Interstate Highway 80-N to junction Oregon Highway 11, to junction U.S. Highway 12, to junction U.S. Highway 395, to junction Washington Highway 17, to junction U.S. Highway 97 to the Canadian-United States International Boundary line to points in New York on and east of a line beginning at Lake Ontario and extending along New York Highway 13 to junction Interstate Highway 81, to junction New York Highway 13, to junction New York Highway 14 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1072), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting; *New furniture,* from points in New Mexico on and south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 82, to junction U.S. Highway 85, to junction New Mexico Highway 52, to junction New Mexico Highway 59, to junction New Mexico Highway 61, to junction New Mexico Highway 78, to junction New Mexico Highway 32, to

junction Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line; those points in Arizona on and south of a line beginning at the Arizona-New Mexico State line, and extending along Interstate Highway 40 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line; points in Nevada on and south and west of a line beginning at the Nevada-Arizona State line, and extending along U.S. Highway 93 to junction U.S. Highway 95, to junction Nevada Highway 58, thence along Nevada Highway 58; to the Nevada-California State line; points in California on and south and west of a line beginning at the California-Nevada State line and extending along unnumbered California Highway near Daylight Pass, Calif., to junction California Highway 190, to junction U.S. Highway 395, to junction California Highway 178, to junction California Highway 99, to junction California Highway 65, to junction California Highway 69, to junction California Highway 180, to junction California Highway 99, to junction California Highway J17, to junction California Highway 130, to junction U.S. Highway 101, to the Pacific Ocean, to points in New York on and east of a line beginning at the Pennsylvania-New York State line and extending north along U.S. Highway 62 to Lake Erie, thence north along Canadian-United States International Boundary line to Lake Ontario. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1073), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 69, to junction U.S. Highway 380 to the New Mexico-Texas State line, to points in New York on and east of a line beginning at the Pennsylvania-New York State line, and extending north along U.S. Highway 62 to Lake Erie, thence north along the United States-Canadian International Boundary line to Lake Ontario. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 106603 (Sub-No. E53), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such roofing and roofing materials, as are building contractor's materials*, from those points in Illinois on, north, and west of a line beginning at the Illinois-Missouri State line at Chester, Ill., and extending southeast along Illinois Highway 3 to junction Illinois Highway 149, thence east on Illinois Highway 149 to junction Illinois Highway 13, thence east on Illinois Highway 13 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction U.S. Highway 50, thence west on U.S. Highway 50 to junction U.S. Highway 51, thence east on U.S. Highway 51 to junction Illinois Highway 16, thence east on Illinois Highway 16 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction Interstate Highway 74, thence east on Interstate Highway 74 to the Illinois-Indiana State line, and those points in Illinois on and south of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 17 and extending west to junction Illinois Highway 29, thence south on Illinois Highway 29 to junction Illinois Highway 116, thence west on Illinois Highway 116 to junction U.S. Highway 67, thence south on U.S. Highway 67 to junction Illinois Highway 9, thence west on Illinois Highway 9 to the Illinois-Iowa State line, to points in Delaware, Maryland (except points on and northwest of U.S. Highway 220), to points in New Jersey on and southwest of a line beginning at the Pennsylvania-New Jersey State line and extending east along Interstate Highway 276 to junction Interstate Highway 295, thence on Interstate Highway 295 to junction U.S. Highway 206, thence south on U.S. Highway 206 to junction New Jersey Highway 70, thence east on New Jersey Highway 70 to junction New Jersey Highway 72, thence east on New Jersey Highway 72 to the Atlantic Ocean, those points in Pennsylvania on and northeast of a line beginning at the Pennsylvania-Maryland State line and extending north along U.S. Highway 219 to junction Pennsylvania Highway 31, thence west on Pennsylvania Highway 31 to junction Pennsylvania Highway 136, thence west on Pennsylvania Highway 136 to junction Pennsylvania Highway 51, thence north on Pennsylvania Highway 51 to the Pennsylvania-Ohio State line, and those points in Pennsylvania on and south of a line beginning at the Pennsylvania-Ohio State line and extending east along Interstate Highway 80 to junction Pennsylvania Highway 147, thence south on Pennsylvania Highway 147 to junction Pennsylvania Highway 61, thence south on Pennsylvania Highway 61 to junction U.S. Highway 422, thence southeast on U.S. Highway 422 to junction Interstate Highway 276, thence along Interstate Highway 276 to the Pennsylvania-New Jersey State line, Washington, D.C., points in Virginia on and north of U.S. Highway 50 and points in West Virginia on and north of U.S. Highway 50 beginning at the Virginia-West Virginia State line and extending west to junction U.S. Highway 220 at the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateways of Whiting, Ind., and the plant site of Certain-teed Products Corp. at Avery, Ohio.

No. MC 106603 (Sub-No. E56), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Facing tile and flooring tile*, from Kankakee, Ill., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Washington, D.C., points in Virginia on and north of U.S. Highway 50 and West Virginia on and east of a line beginning at the Ohio-West Virginia State line and extending south along U.S. Highway 33 to junction Interstate Highway 77, thence south on Interstate Highway 77 to junction U.S. Highway 21, thence southwest on U.S. Highway 21 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of points in Indiana and the plant site of Certain-teed Products Corp. at Avery, Ohio.

No. MC 107012 (Sub- No. E10), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in Alabama, to points in California, Colorado, Idaho, Kansas, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) from points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, and Tallapoosa Counties, Ala., to points in Arizona; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastion, Van Buren, and Washington Counties, Ark.; points in Iowa, New Mexico, Oklahoma; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Colingsworth, Cottle, Dallam, Deaf Smith, Donley, Fyold, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler Counties, Tex.; (3) from points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, and Russell Counties, Ala., to points in Arizona; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark., to points in Iowa; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero,

Sierra, Socorro, Colfax, Harding, Mora, Taos, and Union Counties, N. Mex.; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Seqroyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, Okla.; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, Tex.

(4) From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscalloosa, Walker and Winston Counties, Ala., to points in Arizona; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucus, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Powesheik, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, and Woudbury Counties, Iowa; points in New Mexico, Oklahoma; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger Counties, Texas; Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, Tex.

(5) From points in DeKalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, Ala., to points in Arizona; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chicasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, and Wright Counties, Iowa; Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, and Webster Counties, Iowa; Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, and Union Counties, Iowa; Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, and Sioux Counties, Iowa; points in New Mexico, Oklahoma; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasa, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young Counties, Texas; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger Counties, Tex.; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kennedy, Kinney, Kleberg, La Salle, Live Oak, McMullen, Maverick, Mediana, Nueces, Real, Reguglo, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, Tex.; Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, Tex.; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, Tex.

(6) From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington, and Wilcox Counties, Ala., to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, Ariz., Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; points in Iowa; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, N. Mex., Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, Okla. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 114868 (Sub-No. E33), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson St., Arlington, Va. 22201. Applicants representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in New Jersey, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateways of Washington, D.C. or points in Kentucky within 125 miles of Nashville. (2) Between points in New Jersey, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateways of Washington, D.C. and points in Kentucky within 125 miles of Nashville. (3) Between points in New Jersey, on the one hand, and, on the other, points in Maryland within 125 miles of Washington, D.C. The purpose of this filing is to eliminate the gateway of Washington, D.C. (4) Between points in New Jersey, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of Washington, D.C. or points in Kentucky within 125 miles of Nashville. (5) (a) Between points in New Jersey (except Hunterdon and Warren Counties), on the one hand, and, on the other, points in Ohio on and south of Interstate Highway 70. The purpose of this filing is to eliminate the gateway of Washington, D.C. (5) (b) Between points in New Jersey, on, east, and south of U.S. Highway 202, on the one hand, and, on the other, points in Ohio on and west of Interstate Highway 77, and on and north of Interstate Highway 70. The purpose of this filing is to eliminate the gateway of Washington, D.C. (5) (c) Between points in New Jersey on and south of New Jersey Highway 33, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Washington, D.C. (6) Between points in New Jersey, on the one hand, and, on the other, points in Missouri. The purpose of this filing is to eliminate the gateways of Washington, D.C. and points in Kentucky within

125 miles of Nashville. (7) Between points in New Jersey, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateways of Washington, D.C., points in Kentucky, and points in Tennessee within 125 miles of Nashville.

No. MC 115840 (Sub-No. E111), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe, iron castings encompassed by iron and steel articles, and contractors' equipment, material, and supplies consisting of fittings, valves, hydrants, and gaskets used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply industries* (except commodities in bulk), (1) Between points in North Carolina, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Louisiana, Mississippi, Montana, Nevada, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. (2) Between points in South Carolina, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala.

No. MC 115840 (Sub-No. E112), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 13027, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Valves, hydrants, fittings, and accessories* (except commodities in bulk), from Anniston, Ala., to points in Connecticut, Illinois, Maine, Massachusetts, New Hampshire, Ohio, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Holt, Ala.

No. MC 115840 (Sub-No. E114), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, pipe fittings, pipe valves, and fire hydrants* (except commodities in bulk), from Coshocton, Ohio, to points in Arizona, New Mexico and Texas. The purpose of this filing is to eliminate the gateway of Holt, Ala.

No. MC 124004 (Sub-No. E1), filed May 15, 1974. Applicant: RICHARD DAHN, INC., 620 W. Mountain Road, Sparta, N.J. 07871. Applicant's representative; George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quarried magnetite Ore*, (1) from Albany and Tahawus, N.Y., to points in Kentucky, Pennsylvania, Virginia and West Virginia; (2) from Albany and Tahawus, N.Y., to points in Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey State line, and extending along Interstate Highway 80 to junction U.S. Highway 322, to junction U.S. Highway 62, to junction Pennsylvania Highway 358, thence along Pennsylvania Highway 358 to the Pennsylvania-Ohio State line. The purpose of this filing is to eleminate the gateway of Mt. Hope, N.J.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc.77-29023 Filed 9-30-77;8:45 am]

[7035-01]

[Notice No. W-1TA]

WATER CARRIER TEMPORARY AUTHORITY APPLICATION

SEPTEMBER 30, 1977.

The following is notice of filing of application for temporary authority under section 311(a) of the Interstate Commerce Act. One copy of a petition, if any, must be served on the applicant, or its authorized representative, if any, and the petitioner must certify that such service has been made. The petition must identify the operating authority upon which it is predicated, specifying the "W" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the petitioner shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a petition shall be governed by the completeness and pertinence of the petitioner's information.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office.

No. W-5 (Sub-No. 7TA), by order entered September 27, 1977, the Motor Carrier Board granted Igert, Paducah, Ky., 180-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of iron and steel articles (bridge girders), and miscellaneous construction, equipment, between points on Yellow Creek in Tishomingo County, Miss., from the mouth of the Tennessee River Mile 215 and Mississippi Highway 25 Bridge across Yellow Creek, with the privilege to tack with its existing authority and to interline with other water common carriers. John C. Lovett, Lovett, Johnson, and Shapiro, P.O. Box 165, Benton, Ky. 42045, representatives for applicant. Any interested person may file a petition for reconsideration on or before October 26, 1977. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-29024 Filed 9-30-77;8:45 am]

[7035-01]

[Amdt. No. 5; Exemption No. 131; Rule 19; Ex Parte No. 21]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

SEPTEMBER 28, 1977.

To: All Railroads.

Upon further consideration of Exemption No. 131 issued February 8, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 131 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

Interstate Commerce Commission,
Joel E. Burns,
Agent.

[FR Doc.77-29031 Filed 9-30-77;8:45 am]

[7035-01]

[Amdt. No. 4; Revised Exemption 121 Rule 19; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF THE MADATORY CAR SERVICE RULES

To: The Baltimore & Ohio Railroad Co., the Chesapeake & Ohio Railway Co., Norfolk & Western Railway Co., and Western Maryland Railway Co.

Upon further consideration of Revised Exemption No. 121 issued November 23, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 121 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire December 31, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

Interstate Commerce Commission,
Joel E. Burns,
Agent.

[FR Doc.77-29025 Filed 9-30-77;8:45 am]

[7035-01]

[Amdt. No. 11; Exemption No. 95; Rule 19; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

SEPTEMBER 28, 1977.

To: Bessemer & Lake Erie Railroad Co., and Norfolk & Western Railway Co.

Upon further consideration of Exemption No. 96 issued February 5, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 95 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire December 31, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-29026 Filed 9-30-77;8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 28, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43437—*Barley and Oats to North Pacific Coast Points.* Filed by North Pacific Coast Freight Bureau, Agent (No. 77-4), for and on behalf of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Rates on barley and oats, feed grade, in carloads, as described in the application, from specified points in Montana, to North Pacific Coast points. Grounds for relief—Rate relationship and market competition. Tariff—Supplement 23 to North Pacific Coast Freight Bureau, Agent, tariff 13-I, I.C.C. No. 1302. Rates are published to become effective on October 29, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29027 Filed 9-30-77;8:45 am]

[7035-01]

[No. 36574]

PETITION OF RAILROADS SEEKING AUTHORIZATION TO WAIVE DEMURRAGE CHARGES CAUSED BY SEVERE WINTER WEATHER

SEPTEMBER 27, 1977.

In an order served August 12, 1977, the Commission granted specified rail carriers the right to waive a portion of demurrage charges caused by severe winter weather. Published at 42 FR P. 41,948 on August 19, 1977. In that order, the Commission stated that other carriers who want to participate in the proposal could, upon notifying the Commission in writing of their intent to do so. The following carriers should also be added to those who intend to participate in the proposal: Johnstown and Stoney Creek Railroad Co., The Newburgh and South Shore Railway Co., and The Pittsburgh and Lake Erie Railroad Co.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc.77-29028 Filed 9-30-77;8:45 am]

[7035-01]

[No. 36634]

MONTANA INTRASTATE FREIGHT RATES AND CHARGES—1977

SEPTEMBER 28, 1977.

In the matter of petition for investigation of intrastate freight rates and charges within the state of Montana.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed July 14, 1977, petitioners, three common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Montana, and on behalf of all other railroads engaged in the same or similar transportation services, request that this Commission institute an investigation of their Montana intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act; wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte Nos. 305-RE,[2] 318, 330, and 336.

By tariff filed with the Montana Public Service Commission, petitioners sought to make the general increases granted in the above ex parte proceedings applicable on Montana intrastate traffic. Said Commission ordered cancelled the tariff supplements which would have implemented the increases.

Petitioners contend that present interstate freight rates from, to, and within Montana are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Montana are not more favorable than for interstate traffic; that disparity in favor of Montana intrastate freight rates and charges generally exists in relation to interstate rates and charges; that the present Montana intrastate rail freight rates and charges create undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of sections 13 and 15a of the Interstate Commerce Act, to the extent that they do not include the increases authorized in Ex Parte Nos. 305-RE, 318, 330, and 336; and that failure of the Montana Public Service Commission to authorize petitioners to increase Montana intrastate freight rates and charges corresponding to the aforesaid interstate increases has resulted in depriving petitioners of additional revenues required by them to enable them under honest, economical and efficient management to provide adequate and efficient railroad transportation and services consistent with the public interest and the National Transportation Policy.

Petitioners also contend that upon entering the order prayed for it may become necessary to make readjustments for the purpose of retaining rail traffic and maintaining market relationships, which adjustments have no relation to interstate rates and charges on like traffic as to the provisions of the act. They therefore request that provision be made in said Order for subsequent rate adjustments by petitioners on a self-executing basis without further proceedings or orders of this Commission so that excessive delays of supplemental orders may be avoided. They suggest that the order contain a self-operative provision permitting such adjustment in rates and charges upon 30 days' notice given to the Commission and to the general public, or upon such a lesser period as may be authorized by special permission application, and where no protest to such adjustment is received by the Commission, on or before 12 days prior to the expiration of the 30 day notice, said adjustments may become effective automatically, unless otherwise ordered by the Commission.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation, into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constition of any State.

Therefore, *It it ordered,* That the petition is granted. An investigation, under section 13 and 15a of the Interstate Commerce Act, is instituted to determine whether the Montana intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte Nos. 305-RE, 318, 330, and 336. It will also determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist. The investigation will also determine whether the requested self-operative provision permitting self-executing rate readjustments is properly within the scope of an investigation such

[1] Chicago, Milwaukee, St. Paul & Pacific R.R. Co.; Union Pacific Railroad Co.; and Burlington Northern Inc.

[2] Since the filing of their petition, an order has been decided in Ex Parte No. 305-RE, August 22, 1977, further explicating the effect of the increases authorized therein.

as this one, and, if so, whether the pleadings submitted in this investigation show reason sufficient to warrant such a provision.

It is further ordered, That all common carriers by railroad operating in the State of Montana, subject to the jurisdiction of this Commission are made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order shall be served upon each of the petitioners and respondents herein. The State of Montana shall be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Montana and to the Public Service Commission of Montana. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 12th day of September, 1977.

By the Commission, Commissioner Murphy.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29029 Filed 9-30-77;8:45 am]

[7035-01]

[Notice No. 231]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 2, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77118 filed September 14, 1977. Transferee: Robert Allport Harris, doing business as R. A. Harris & Sons, 3501 22d Street, Menominee, Mich. 49858. Transferor: Service Ice Company, a corporation, 1013 N. 14th Street, Sheboygan, Wis. 53081. Applicant's representative: Robert A. Harris, (address same as transferee). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 119704 issued February 17, 1961, as follows: Ice cream and frozen milk products, from Sheboygan, Wis., to points in Iowa, Minnesota, Illinois, Indiana, and Michigan and nuts and fruit flavors for use as ingredients in the manufacture of ice cream and frozen milk products, returned shipments of ice cream and frozen milk products, and empty cases and containers used in packing ice cream and frozen products, from points in Iowa, Minnesota, Illinois, Indiana, and Michigan, to Sheboygan, Wis. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Verifine Dairy Products Co., of Sheboygan, Wis. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77262, filed September 20, 1977. Transferee: Ronald B. Pearson, doing business as Pearson's Express, 132 Vale Street, Fall River, Mass. 02724. Transferor: Link Transportation Company, Inc., 70 Christine Terrace, Milford, Conn. 06460. Applicant's representative: Ronald B. Pearson, 132 Vale Street, Fall River, Mass. 02724. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC 100825 (Sub-No. 1), issued March 20, 1975 as follows: General commodities, except those of unusual value, and except automobiles, dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over regular routes between Jewett City, Conn., and Providence, R.I., serving all intermediate points, and serving the off-route points of Voluntown, Griswold, Norwich, Hanover, Baltic, Versailles, Taftville, Oneco, Sterling Moosup, Canterbury, Brooklyn, Attawaugan, Goodyear, and East Killingly, Conn., and Foster Center, R.I.: from Jewett City over Connecticut Highway 12 to Danielson, Conn., thence over U.S. Highway 6 to Providence, and return over the same route. Between Danielson, Conn., and Providence, R.I., serving all intermediate points, and serving the off-route points of Canterbury, Wauregan, Brooklyn, East Killingly, Goodyear, Ballouville, Pomfret, Grosvenor Dale, North Grosevnor Dale, and Mechanicsville, Conn.: from Danielson over Connecticut Highway 12 to Putnam, Conn., thence over U.S. Highway 44 to Providence, and return over the same route. Transferee holds Certificate of Registration No. MC 120880 authorizing service to all points in Massachusetts. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77299, filed September 5, 1977. Transferee: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, Pa. 19067. Transferor: Benjamin Brothers, Inc., 1729 West Allegheny Ave., Philadelphia, Pa. 19132. Applicants' representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 84450, issued August 8, 1960, as follows: Green salted hides, from points in New Jersey, except points within 20 miles of New York, N.Y., to Philadelphia, Pa.; tanning materials, from Newark, N.J., to Philadelphia, Pa., and fish oil, in barrels, from Newark, N.J., to Philadelphia, Pa.; uncrated machinery, and articles requiring specialized handling or rigging because of size or weight, between Philadelphia, Pa., and points in New Jersey, Delaware, and Pennsylvania within 30 miles of Philadelphia, on the one hand, and, on the other points in New York, except New York, N.Y., and points within 75 miles thereof; machinery, and articles requiring specialized handling or rigging because of size or weight, between Philadelphia, Pa., points in New Jersey, Delaware, and Pennsylvania, within 30 miles of Philadelphia, on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, Pennsylvania, Connecticut, and the District of Columbia, and

those in New York within 75 miles of New York, N.Y., including New York, N.Y.; hides and tallow, between Philadelphia, Pa., on the one hand, and, on the other, points in New York and New Jersey within 20 miles of New York, N.Y., including New York, N.Y.; and general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special handling or rigging because of size or weight, and those injurious or contaminating to other lading, between points in Philadelphia, Pa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC 77304, filed September 13, 1977. Transferee: Ray Holland, 13101 El Road, Little Rock, Ark. 72206. Transferor: William R. Pinkerton, doing business as Bill Pinkerton, 13801 Tronton Cutoff, Little Rock, Ark. 72206. Applicants' representative: THOMAS J. PRESSON, Lot 27 River Bend Estates, Redfield, Ark. 72132. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC 117834 (Sub-No. 1); MC 117834 (Sub-No. 4); and MC 117834 (Sub-No. 5); issued May 7, 1963, August 12, 1963, February 2, 1967, and January 23, 1970, as follows: Bananas, from New Orleans, La., to Little Rock, Ark.; bananas from Gulfport, Miss., Mobile, Ala., and Houston and Galveston, Tex., to North Little Rock, Ark.; fruit and vegetable shipping containers, from Little Rock, Ark., to points in Louisiana; bananas, from New Orleans, La., Gulfport, Miss., Mobile, Ala., and Houston and Galveston, Tex., to Little Rock, Ark.; Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29030 Filed 9-30-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., September 27, 1977; 2:00 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Scheduled Meetings for September 27 as announced by M-60 as amended by MA-52 and MA-53; and for September 29 as announced by MA-61.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Notice of change of time for the September 27, and September 29 Meetings.

Chairman Kahn and Member West will be at the State Department the afternoon of September 27, and thus it is necessary to change the time of the scheduled meeting from 2:00 p.m. to 10:00 a.m.

Chairman Kahn will appear at a Congressional meeting the morning of September 29, and thus it is necessary to change the time of that scheduled meeting from 10:00 a.m. to 2:00 p.m.

[S-1490-77 Filed 9-29-77;9:31 am]

2

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed on September 29, 1977.

CHANGES IN THE MEETING SCHEDULE: Additional items to be considered by the Commission.

OPEN MEETING AGENDA: At the open meeting scheduled for Wednesday, October 5, 1977, at 10 a.m., the Commission will consider the following additional item: Publication for comment of a proposed rule and schedule relating to going private transactions by public companies or their affiliates. (This item was previously scheduled for September 28, 1977.)

CLOSED MEETING AGENDA: At a closed meeting scheduled for Wednesday, October 5, 1977, at 1:30 p.m., the Commission will consider the following matter: Discussion of regulatory matters bearing enforcement implications.

At a closed meeting scheduled for Thursday, October 6, 1977, at 1:30 p.m., the Commission will consider the following matter: Discussion of regulatory matters bearing enforcement implications.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the above captioned meetings and determined that no earlier notice thereof was possible.

SEPTEMBER 27, 1977.

[S-1487-77 Filed 9-28-77;1:55 pm]

[8010-01]

3

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 47942, September 22, 1977.

TIME AND DATE: September 29, 1977, 5 p.m.

PLACE: 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Discussion of litigation matters.

Chairman Williams, Commissioners Evans and Pollack voted to close the meeting and determined that no earlier notice thereof was possible.

SEPTEMBER 29, 1977.

[S-1491-77 Filed 9-29-77;10:52 am]

[7020-02]

4

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Discussion of possible section 332 investigation on steel.
6. Consideration of overall research plan (to be submitted by the Acting Director of Operations).
7. Investigations AA1921-169—172 (Animal Glue and Inedible Gelatin)—briefing.
8. Proposed changes to the Commission's rules—see documents GC-A-19 and GC-A-20.
9. Discussion of the status of the report to the Ways and Means Committee—see action jacket 004-77-6.
10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1488-77 Filed 9-28-77;4:07 pm]

[7020-02]

5

UNITED STATES INTERNATIONAL TRADE COMMISSION. USITC SE-77-57B.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 28, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Tuesday, October 11, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows: 2. Investigation AA1921-Inq.-7 (Methyl Alcohol)—briefing (if necessary) and vote.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1489 Filed 9-28-77;4:07 pm]

Federal Register

MONDAY, OCTOBER 3, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Procedure for Map Correction

[4210-01]

Title 24—National Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-297]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Boulder, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 27, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Boulder, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Boulder, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirements to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of Letter of Map Amendment.

Map No. H 080024A Panels 03 and 05, published on June 27, 1974 in 39 FR 23264, indicates that Lot 19, Block 3, Keewaydin Meadows Filing No. Three, Boulder, Colo., as recorded on Plan File R-2-3, No. 6, in the office of the Clerk and Recorder of Boulder County, Colo., is within the Special Flood Hazard Area.

Map No. H 080024A Panels 03 and 05 is hereby corrected to reflect the entire area bounded by U.S. Route 36 on the south, Pawnee Drive on the west, Baseline Road on the north, and the City of Boulder corporate limits on the east, which includes Lot 19, Block 3, is not within the Special Flood Hazard Area identified on June 14, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968) effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28324 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 25, published on November 29, 1974, in 39 FR 41504, indicates that Lot 35, Section 4, The Highlands, Anne Arundel County, Md., as recorded in Liber Number 33, Folio 20 of Plats, in the Office of the Clerk of the Circuit Court, Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240008 Panel 25 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28325 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 24, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map. No. H 240008 Panel 45, published on November 24, 1974, in 39 FR 28255, indicates that Lot 93, Section 5, Ulmstead Estates, also being 662 Quail Run Court, Anne Arundel County, Md., as recorded in Platbook 51, Page 14, in the Office of the Clerk of the Circuit Court, Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240008 Panel 45 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28326 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 55, published on November 29, 1974, in 39 FR 41504, indicates that Lots 42 and 43, Crofton Commons, Anne Arundel County, Md., as recorded in Plat Number 2654, Platbook 49, Folio 29, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., are within the Special Flood Hazard Area.

Map No. H 240008 Panel 55 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28327 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-384]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Calvert County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 23, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Calvert County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Calvert, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

Map No. H 240011 Panel 03, published on October 23, 1974, in 39 FR 37641, indicates that Lots 7 and 8, Block M, Neeld Estates, Calvert County, Md., as recorded in Book 188, Pages 357 and 358 of Deeds, in the Office of Land Records, Calvert County, Md., are within the Special Flood Hazard Area.

§ 1920.7 Notice of letter of map amendments.

Map No. H 240011 Panel 03 is hereby corrected to reflect that the above prop-

erty is not within the Special Flood Hazard Area identified on October 18, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28323 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Prince Georges County, Md. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Prince Georges, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 245208A Panel 33, published on February 14, 1977, in 42 FR 9113, indicates that Lot 17, Block E, Section 3, Rambling Hills, Prince Georges County, Md., as recorded in Book 64, Plat 23 in the Office of Land Records of Prince Georges County, Md., is within the Special Flood Hazard Area.

Map No. H&I 245208A Panel 33 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 28, 1976. The Structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28329 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Marlborough, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Marlborough, Mass. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the City of Marlborough, Mass., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H 250203 Panel 02, published on August 7, 1974, in 39 FR 28426, indicates that Lot 6, Section C, Indian Lake Shores, at 291 Lake Shore Drive, Marlborough, Mass., as recorded in Book 6985, Page End, in the office of the Registry of Deeds of Middlesex County, Mass., is within the Special Flood Hazard Area.

Map No. H 250203 Panel 02 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28330 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-314]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Blaine, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Blaine, Minn. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Blaine, Minn., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insur-

ance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 270007A Panel 10, published on August 6, 1974 in 39 FR 28236, indicates that Lots 10 through 12, Block 5; Lots 7 through 20, Block 6; Lots 1 through 22, 25 and 26, Block 7; and Lot 4, Block 9, Rice Creek Park, Blaine, Minn., as recorded in Book 23 of Plats, Page 1, in the office of the Recorder of Anoka County,, Minn., are within the Special Flood Hazard Area.

Map No. H 270007A Panel 10 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on June 28. 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–28331 Filed 9–30–77;8:45 am]

[4210–01]

[Docket No. FI–279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Upper Saddle River, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 16, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Upper Saddle River, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Upper Saddle River, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the existing structure on the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340077 Panel 02, published on January 16, 1974, in 39 FR 1986, indicates that the westerly portion of Lot 19, at 111 Lake Street, Upper Saddle River, N.J., as recorded in Book 5693, Pages 29 through 31, in the Office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340077 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–28332 Filed 9–30–77;8:45 am]

[4210–01]

[Docket No. FI–73–4551]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Allendale, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the borough of Allendale, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the borough of Allendale, N.J., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H 340019 Panel 02, published on March 12, 1973 in 38 FR 6679, indicates that Lot 1, Block 1705, located at 210 Mallinson Street, Allendale, N.J., as shown on the Allendale Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 10 on Map No. 160, in Book 5665, Page 125, in the office of the Clerk of Bergen County, N.J.

Map No. H 340019 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on March 16, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28333 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H 340067 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 9, Block 3311, at 245 Solas Court, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 26, Block 3311, in Book 5715, Page 415, in the Office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28334 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is within the Special Flood Hazard Area.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that Lot 32, Block 3104, at 453 George Street, Ridgewood, New Jersey, as shown on the Village Tax Map, is not within the Special Flood Hazard Area. This property is recorded as Lot 32, Block 180–A, in Book 3886, Page 134, in the office of the Clerk of Bergen County, New Jersey.

Map No. H 340067 Panel 03 is hereby corrected to reflect the above property is within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28335 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association

(NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 01, published on August 24, 1973 in 38 FR 22776, indicates that Lot 31, Block 2905, as shown on the City Tax Assessor's Map, at 545 Barnett Place, Ridgewood, New Jersey, is within the Special Flood Hazard Area. This lot is recorded at Lot 14D, Block 165, in Book 5382, Page 346, in the office of the Clerk of Bergen County, New Jersey.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28336 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973 in 38 FR 22776, indicates that Lot 27, Block 4205, located at 131 Bergen Court, Ridgewood, New Jersey, as shown on the County Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 5, Block "A", in Book 3484, Page 79, in the office of the Clerk of Bergen County.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28337 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that property located at 379 South Irving Street, Ridgewood, N.J., as recorded in Book 5774, Page 270, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), Effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28338 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that Lot 8, Block 3604, at 391 Colonial Road, Ridgewood, N.J., as recorded in Book 4812, Page 426, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340067 Panel 03 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28339 Filed 9-30-77;8:45 am]

[4210–01]

[Docket No. FI–196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973 in 38 FR 22776, indicates that Lot 8, Block 4317, located at 249 Lockwood Road, Ridgewood, N.J., as shown on the County Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lots 33 and 34, Block 285, in Book 3534, Page 333, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28340 Filed 9-30-77;8:45 am]

[4210–01]

[Docket No. FI–991]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Grove City, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 30, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Grove City, Ohio. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Grove City, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to pur-

chase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Food Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 390173A Panel 04, published on March 30, 1976, in 41 FR 13344, indicates that Lots 22 and 26, Brook Park Section 2, Grove City Ohio, as recorded in Platmook 50, Page 4 in the Office of the Recorder, Franklin County, Ohio, are within the Special Flood Hazard Area.

Map No. H 390173A Panel 04 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on March 26, 1976, and May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28341 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Washington County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 27, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Washington County, Oreg. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for Washington County, Oreg., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14, published on January 27, 1975 in 40 FR 3989, indicates that Lot 10, Forestwaye No. 2, Washington, County, Oreg., as recorded in Book 36, Page 37, in the office of the Clerk of Records and Elections of Washington County, Oregon, is within the Special Flood Hazard Area.

Map No. H 410238 Panel 14 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28343 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-239]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Bensalem Township, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 11, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Bensalem Township, Pa. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Township of Bensalem, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 420181A Panel 02, published on April 11, 1974, in 39 FR 13152, indicates that Valley Meadows, Bensalem Township, Pa., as recorded in Planbook 148, Page 18A, in the Office of the Recorder of Deeds of Bucks County, Doylestown, Pa., is within the Special Flood Hazard Area.

Map No. H 420181A Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 18, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28344 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-552]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Claremont, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 16, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Claremont, S. Dak. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Town of Claremont, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 460105 Panel 01, published on April 16, 1975, in 40 FR 17020, indicates that Lots 1 and 2, Block 5 of the Original Plat of the Town of Claremont, S. Dak., as recorded in Quit Claim Deed, Book 170, Page 397, in the office of the Register of Deeds, Brown County, South Dakota, are within the Special Flood Hazard Area.

Map No. H 460105 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on April 25, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28345 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Dallas, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Dallas, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Dallas, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for contruction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480171A Panel 21, published on January 28, 1975, in 40 FR 4133, indicates that the tract of land in the Eli Merrell Survey, Abstract Number 930 being in City Block 6491, Dallas, Tex., as recorded in Volume 75004, Pages 1617 through 1623 of Warranty Deeds, in the Office of the Clerk of Dallas County, Texas is within the Special Flood Hazard Area.

Map No. H 480171A Panel 21 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

A tract of land located in the Eli Merrell Survey, Abstract Number 930, and being in City Block 6491 of the City of Dallas, Tex., and being part of a 40-acre tract conveyed to Gifford-Hill and Company, Incorporated, by deed recorded in Volume 3793, Page 127, of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

Commencing at a point in the north right-of-way line of Lombardy Lane (a 50-foot right-of-way) and in the west line of said 40-acre tract, said point also being the Southeast corner of Lot 1, Block A/6490 of Northwest Acres Addition as recorded in Volume 4, Page 429, of the Map Records of Dallas County, Tex.; thence N. 55°30' E., approximately 60 feet to the top of bank as shown on the topographic Map of Gifco Business Park as prepared by Donald C. Moreau, revised April 25, 1977, also being the actual point of beginning; thence continuing along said top of bank in northerly direction approximately 2,468 feet to a point; thence N. 13°30' E., approximately 55 feet to a point; thence S. 63°30' E., approximately 105 feet to a point; thence N. 49°00' E., approximately 140 feet to a point; thence N. 89°30'03" E., approximately 392 feet to a point; thence S. 53°00' E., approximately 45 feet to a point; thence S. 0°03'50" W., along the eastern line of said property 1,551 feet to a point; thence S. 6°15'47" W., approximately 426.94 feet to a point; thence S. 15°16'50" W., approximately 80 feet to a point; thence S. 18°30' W., along the said designated top of bank approximately 510 feet to a point; thence in a westerly direction along said top of bank approximately 392 feet to the actual point of beginning,

is not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28346 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Missouri City, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 24, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Missouri City, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Missouri City, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480304 Panel 02, published on January 24, 1975, in 40 FR 3781, indicates that Lots 1 through 17, Block 1; Lots 1 through 19, Block 2; Lots 1 through 37, Block 3; Lots 1 through 22, Block 4; and Reserve B; Quail Valley Subdivision Replat Thunderbird Patio Homes, Section 1, as recorded in Volume 19, Page 6 of Plats in the Office of Map Records, Fort Bend County, Tex., are within the Special Flood Hazard Area.

Map No. H 480304 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 17, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28347 Filed 9-30-77;8:45 am]

[4210–01]

[Docket No. FI-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Houston, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Houston, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Houston, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480296A Panel 138, published on January 10, 1975, in 49 FR 2190, indicates that Fondren Place Townhomes, Houston, Tex., as recorded in Volume 230, Page Number 55 of Plats, in the Office of the Clerk of Court, Harris County, Tex., is within the Special Flood Hazard Area.

Map No. H 480296A Panel 138 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4123); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28348 Filed 9-30-77;8:45 am]

[4210–01]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Harris County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Harris County, Tex. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Harris, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for a construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from

the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 480287B Panel 41, published on February 14, 1977, in 42 FR 9118, indicates that Owen Tract, Harris County, Tex., as recorded in Volume 8321, Page 12, of General Warranty Deeds in the Office of the Clerk of Court of Harris County, Tex., is within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 41 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

Beginning at an iron pipe at a fence corner marking the northeast corner of the Mandred Wood Survey, Abstract No. 869, Harris County, Tex., and the northwest corner of the F. MacNaughton Survey; thence S. 2°24'11" E., approximately 598 feet to a point; thence S. 87° W., approximately 1,075 feet to a point; thence S. 60°30' W., approximately 1,736 feet to a point; thence S. 77°15' W., approximately 1,570 feet to a point on the western line of said tract; thence N. 2°34'28" W., approximately 1,751 feet to a point being the northwest corner of said tract; thence N. 87°57'02" E., approximately 4,145.86 feet to a point, being the point of beginning,

is not within the Special Flood Hazard Area, but is within Zone C as identified on July 30, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28349 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Fairfax County, Va. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Fairfax, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided,* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 515525C Panel 13, published on February 14, 1977, in 42 FR 9119, indicates that Lot 26, Block K, Section 2, Resubdivision Merrifield View, Fairfax County, Va., as recorded in Deedbook 3525, Page 611 of Plats in the Office of the Clerk of the Circuit Court for Fairfax County, Va., is within the Special Flood Hazard Area.

Map No. H & I 515525C Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 7, 1976. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28350 Filed 9-30-77;8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3428]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Unity, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of Unity, Westmoreland County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the bulletin board at the Township Municipal Building, R.D. 3, Latrobe, Pa. 15650.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Paul R. Watkins, Chairman of the Board of Supervisors of Unity, Box 526, Latrobe, Pa. 15650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Unity, Westmoreland County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Loyalhanna Creek	State Route 981	982
	Mission Rd.	993
	Route 982	1,004
	U.S. 30	1,017
	Route 217	1,029
	Spillway	1,033
Slate Creek	Confluence with tributary No. 1.	1,150
Tributary No. 1	Mouth of tributary No. 1.	1,150
	U.S. 30	1,179
	Township R.D. 689	1,243
Crabtree Creek	Abandoned railroad bridge.	993
	Route 119	995
	LR 64051	998
Little Crabtree Creek	Mouth of Little Crabtree Creek.	998
	Route 119	1,003
Nine Mile Run	T-890	1,018
	Karns St.	1,062
	State Route 982	1,064
Tributary No. 2	Confluence with 9-Mile Run.	1,194
	LR 64161	1,110
Semicklky Creek	Route 130	1,030
	T-883	1,044

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28428 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3429]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Walker, Juniata County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Walker, Juniata County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Building, R.D. 1, Thompsontown, Pa. 17094.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John E. Wagner, R.D. 2, Mifflintown, Pa. 17094.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581) or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Walker, Juniata County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents, and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, (national geodetic vertical datum)
Juniata River	Confluence tributary No. 7.	423
	Confluence of Dee Run.	432
	State Route 75/LR45	438
Locust Run	Johnstown Rd./LR 34023	452
	Route 322/22/LR31	474
	Church Rd.	498

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Farmer's Rd. downstream.	544
	Locust Rd.	629
Tributary No. 7	Confluence with Juniata River.	423
	Amish Rd.	427
	U.S. Route 22/U.S. 322.	466
	U.S. 22	480
	Township Rd./LR-34023.	530
Doe Run	Confluence with Juniata River.	432
	Farmer's Rd.	443
	Helltown Rd./LR-34006.	457
Cedar Spring Run	Confluence with Doe Run.	432
	Confluence with tributary No. 1.	435
	Route 22 and U.S. 322.	442
	Church Rd.	444
	Cedar Grove Rd./T-388.	446
Tributary No. 1	Confluence with Cedar Spring Run.	435
	U.S. Routes 22 and 322.	435
	Swamp Rd./LR34030.	445
	U.S. Routes 22 and 322 upstream.	472

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28429 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3430]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Aiken, Aiken County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Aiken, Aiken County, S.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, Aiken, S.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable H. O. Weeks, Mayor of Aiken, P.O. Box 1177, Aiken, S.C. 29801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581, or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Aiken, Aiken County, S.C. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Sand River	Upstream limit of detailed study.	375
	Downstream corporate limits:	344
Tributary C	Limit of detailed study.	443
	Tributary C1	361
Tributary C1	Downstream limit of detailed study.	399
Sand River tributary I—branch 1.	----do----	312
Tributary V	Upstream corporate limits.	407
	Downstream corporate limits.	367
Redds Branch	Brentwood Pl.	484
	2-Notch Rd.	461

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28430 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3431]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Lawrenceville, Brunswick County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Lawrenceville, Brunswick County, Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 101 East Church Street, Lawrenceville, Va. 23868.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. E. N. Doyle, Mayor of Lawrenceville, Va. 23868.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Lawrenceville, Brunswick County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program

regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Creek	Confluence w/Sandy Branch.	176
	Confluence w/Roses Creek.	178
	Virginia Route 713	180
	U.S. 58 bypass	181
	U.S. 58 business route.	182
	Downstream corporate limits:	182
	Upstream corporate limits.	182
	Norfolk, Franklin, and Danville RR. (1st crossing).	187
	Norfolk, Franklin, and Danville RR. (2d crossing).	190
	Norfolk, Franklin, and Danville RR. (3d crossing).	192
Roses Creek	Confluence w/Great Creek.	178
	U.S. 58 bypass	180
	Virginia Route 678	182
	Norfolk, Franklin, and Danville RR:	185
	U.S. 58 business route.	180
	Corporate limits	186
	Confluence w/Rocky Run:	186

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28431 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Douglas County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Douglas County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Courthouse, Douglas County, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William E. Bechtol, Chairman of the Douglas County Commissioners, Douglas County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Douglas County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Douglas Creek	Burlington Northern RR. at Palisades.	970.8
	U.S. Route 2 bridge at Douglas.	2,369.6
Kummer Draw	Douglas Ave.	2,374.2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28432 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3433]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Rosalia, Whitman County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Rosalia, Whitman County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Rosalia, Wash.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. Joe Freeze, Mayor of Rosalia, Rosalia, Wash. 99170.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Rosalia, Whitman County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Pine Creek	Upstream corporate limits, right bank.	2,220
	Upstream corporate limits, left bank.	2,218
	7th Street Bridge	2,217
	Railroad bridge	2,215
	Downstream corporate limits.	2,210

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28433 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3433]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of McFarland, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of McFarland, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 5915 Milwaukee Street, McFarland, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Frank Dresen, Village President, Village of McFarland, Village Hall, 5915 Milwaukee Street, McFarland, Wis. 53558.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of McFarland, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mud Lake, Yahara River, Lake Waubesa.	U.S. Highway 51 bridge.	847
	Exchange Street Bridge.	847
	Inlet of Mud Lake	846
	Outlet of Mud Lake	846

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28434 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3434]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Monona, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Monona, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 5211 Schluter Road, Monona, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor B. Dean Bowles, City Hall, 5211 Schluter Road, Monona, Wis. 53716.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Monona, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate

flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Monona-Yahara River.	Bridge Rd.	848
	U.S. Highways 12 and 18.	848

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28435 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3008]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oak Creek, Wis.

AGENCY: Federal Insurance Administration.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on July 5, 1977 at 42 FR 34465 in the FEDERAL REGISTER, and in The Oak Creek Pictorial on June 22, 1977 and June 24, 1977, showing the flood elevation in Oak Creek, as National Geodetic Vertical Datum, should be corrected to read Oak Creek Datum. To obtain National Geodetic Vertical Datum, add 560.56 feet to the Oak Creek elevations.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28436 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3435]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Diamondville, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Diamondville, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Diamondville, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Phil Ferentchak, Town Hall, Diamondville, Wyo. 83116.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Diamondville, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hams Fork	Railroad bridge	6,860
	do	6,873
	East 4th Street Bridge.	6,875

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28437 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3436]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Hudson, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Hudson, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Hudson, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Red D. Svilars, Town Hall, Hudson, Wyo. 82515.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Hudson, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Popo Agie River.	Highway 789 bridge....	5,084

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28438 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3437]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Lincoln County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Lincoln County, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Lincoln County Courthouse, Kemmerer, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge C. Stuart Brown, Box 1, Kemmerer, Wyo. 83101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 7th St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood), for Lincoln County, Wyoming, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hams Fork.....	Frontier Highway Bridge.	6,916

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28439 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3438]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Clatsop County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Clatsop County, Oreg. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Astoria, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert W. Palmer, Chairman, Board of Commissioners for Clatsop County, P.O. Box 179, Astoria, Oreg. 97103.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Clatsop County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lewis and Clark River.	Fort Clatsop Road Bridge.	12
	Klickitot Creek Bridge.	32
Little Walluski River.	Little Walluski Rd. (Culvert).	7
Big Creek	Old Highway 30 bridge.	18
	U.S. Highway 30 bridge.	32
Little Creek	Old Highway 30 bridge.	13
	U.S. Highway 30	34
Bear Creek	Old U.S. Highway 30 bridge.	21
Plympton Creek	Westport Dock Road Bridge.	15
	Bridge	16
	Burlington Northern bridge.	18
	Columbia River highway bridge.	22
Neawanna Creek	Broadway Street Bridge.	13
	Avenue S Bridge	13
Necanicum River	Sunset Highway U.S. 26 bridge.	150
	Reservoir Road Bridge.	164
North Fork Nehalem River at Hamlet.	Private bridge	506
	Steel bridge, Hamlet Rd.	514
	Private bridge	535
	Log bridge, Hamlet Rd.	541
Nehalem River	Nehalem Road Bridge.	380
	U.S. Highway 26 bridge.	412
	Jewell-Elsie Road Bridge.	435
	Nehalem Highway bridge.	470
	do	478
	do	490
	do	500
Humbug River	Private bridge	383
	Lower Nehalem Road Bridge.	400
Cow Creek	Fishhawk Falls Highway bridge.	482
	Private bridge	522
Fishhawk Creek at Jewell.	Bridge at Jewell	469
Northrup Creek	Nihalem Highway bridge.	493
Fishhawk Creek at Birkenfeld.	Bridge	519
	do	527
	Greasy Spoon Road Bridge.	529

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28440 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3439]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Douglas County, Oreg. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Douglas Avenue, Roseburg, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John Truett, Chairman, County Board of Commissioners, Douglas County, County Courthouse, Douglas Avenue, Roseburg, Oreg. 97470.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Douglas County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII) of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Umpqua River	Scottsburg Bridge (Highway 38)	40
	Beckley Bridge	120
	Smith Bridge	144
	Kellogg Bridge	203
	Bullock Bridge	223
	Tyee Access Bridge	297
	County Bridge	335
Coo Creek	Glendale Bridge	1,509
	Quines Creek Rd.	1,547
	Bureau of Land Management bridge	1,824
Deer Creek	Pearce Road Bridge	474
South Umpqua River	Highway I-5 bridge	471
	Happy Valley Rd.	494
	Dillard Bridge	526
	Mary Moore Bridge	553
	Southern Pacific RR	613
	Pruner Bridge	637
North Umpqua River	Browns Bridge	468
	Highway I-5 bridge	447
	Floyd Frear Bridge	672
	Lone Rock Bridge	719
Smith River	County Bridge	13
	Log dumb	21
Schofield Creek	Highway 101	11
	County Bridge	20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28441 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3440]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Tillamook County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule:

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood)

listed below for selected locations in Tillamook County, Oreg. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, 911 Williams Street, Tillamook, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles Bud Bailey, Chairman, Board of Commissioners, County Courthouse, 911 Williams Street, Tillamook, Oreg. 97141.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Tillamook County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Nehalem River	Oregon Coast Highway bridge (Highway 101).	10
	Necanicum Highway bridge.	14
	Southern Pacific RR. bridge.	17
	Foley Creek Road Bridge.	20
North Fork Nehalem River.	Camp Four Road Bridge.	12
	Scovel Road Bridge	15
Miami River	Southern Pacific RR. bridge.	9
	Miami River Bridge	9
	Moss Creek Road Bridge.	22
	Longview Fibre Road Bridge.	46
Kilchis River	Southern Pacific RR. bridge.	9
	Kilchis River Bridge	11
	Boquist Road Bridge	15
	Curz Road Bridge	27
	Bridge	30
Wilson River	Wilson River Bridge (Highway 101).	17
	Southern Pacific RR. bridge.	20
	Sollie Smith Bridge	26
	Wilson River Highway bridge.	54
Hoquarton Slough	Hoquarton Slough Bridge (Highway 101).	11
Trask River	Stillwell Bridge (Netarts Highway).	10
	Tone Bridge	16
	Trask River Bridge (Highway 101).	25
	Southern Pacific RR. bridge.	28
	Johnson Bridge (Market Rd. No. 13).	35
Tillamook River	Tillamook River Bridge (Netarts Highway).	10
	Burton Bridge	11
Three Rivers	Highway 101 bridge	54
	Bridge	110
	do	187
Nestucca River	Pacific City Bridge	14
	Woods Bridge	16
	Cloverdale Bridge	25
	Condor Bridge	42

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28442 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3410]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Kansas City, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Kansas City, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 414 East 12th, 29th Floor, Kansas City, Mo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John B. Wheeler, City Hall, 414 East 12th, 29th Floor, Kansas City, Mo. 64108.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 7 Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Kansas City, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Shoal Creek	76th St	791
Mill Creek	Brighton Rd	822
	Cypress Rd	841
	Jackson St	845
	Indiana St	870
	Northeast 56th St	890
Missouri River	I-435 bridge	742
	Paseo Highway bridge.	747
	Hannibal bridge	749
Old Maids Creek	Linden Rd	796
Rock Creek (Avondale).	Anticoch Bridge	780
	Winn Rd	785
	Parvin Rd. culvert	806
	I-35	810
	North Parvin Rd	819
Rock Creek	Brighton Ave	821
Rocky Branch	Northeast 132d St	889
Searcy Branch	Birmingham Rd	738
	Highway 210	743
	New St	749
	Russel Rd	778
	Parvin Rd	789
2d Creek	U.S. 71	928
	Culver Northwest 108th St. (downstream).	962
	Culvert Northwest 108th St. (upstream).	965
2d Creek West Branch.	108th St	961
Shoal Creek	Birmingham Rd	743
	Hughes Rd	746
	Brighton Ave	804
Line Creek	Northwest 68th St. and County Rd. AA.	829
Fishing River	North Stark Ave	894
First Creek	Baughman Rd	971
East Fork Shoal Creek.	Missouri Highway 152	821
East Fork of Line Creek.	Northwest 68th St	839
East Creek	Old Wood Bridge	796
Burlington Creek	Northwest 53d Ter	813
	Northwest 56th St	836
Wildcat Branch	Northwest 28th St	896
	Missouri Highway 291	914
Waukomis Lake tributary.	Bryan Ave	843
Unnamed creek at Randolph, Mo. (north branch).	I-435	762
Unnamed creek at Randolph, Mo. (east branch).	Birmingham Rd	744
Todd Creek	Northwest Interurban Rd.	860
	I-29	909
Blue River	Interstate 435	741
	U.S. 40	765
	South B U.S. 71	795
	Holmes Rd	860
Round Grove Creek.	Kansas City Southern R.R.	769
	Raytown Rd	784
	Blue Ridge Cutoff	813
	Raytown Rd	826
Little Blue River	Little Blue Rd	797
	Noland Rd	806
	View High Dr	821
	High Grove Rd	888
Little Cedar Creek	Rhinehart Rd	802
Brush Creek	North Childress Ave	883
Unnamed creek No. 1.	Blue Ridge Cutoff	818
	43d St	979
Unnamed creek No. 2.	Chicago, Rock Island and Pacific R.R. (upstream).	860
	Pittman Rd	883
	Sterling Ave. (downstream).	936
	Sterling Ave. (upstream).	944
	Kermont	970
Brush Creek	Cleveland Ave	771
	Prospect Ave	779
	Woodland Ave	796
	Troast Ave	817
	Wornall Rd	837
	State Line Rd	853
Town Fork Creek	51st St	794
	57th St	811
	Park Ave	846
White Oak Creek	Military Club Rd	810
Lamphins Fork	Raytown Rd	911
Indian Creek	Missouri Pacific RR	899
	Wornall Rd	810
Dyke Branch	Holmes Rd	797
	Wornall Rd	833
Buckeye Creek	Culvert Brighton Rd	743
	Culvert Highway 210 Access Rd.	751
	Culvert 83th St	769

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28443 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3411]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Pagedale, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pagedale, St. Louis County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 1404 Ferguson Avenue, Pagedale, Mo. 63133.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable William D. Speiser, Mayor, City of Pagedale, City Hall, 1404 Ferguson Avenue, Pagedale, Mo. 63133.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pagedale, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Northeast Branch River Des Peres	230 feet upstream from Pennsylvania Ave.	529
	Upstream side, St. Louis belt and terminal railway.	543
Engelholm Creek	Norfolk and Western RR.	523
	210 feet upstream from Kingsland Ave.	523
	120 feet downstream from North Market Bridge.	543

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28444 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3412]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Lyndhurst, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Lyndhurst, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, Valley Brook Avenue, Lyndhurst, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph A. Carucci, Township Hall, Valley Brook Avenue, Lyndhurst, N.J. 07071.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Lyndhurst, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Downstream of Kingsland Avenue Bridge.	12
	Upstream of Kingsland Ave. Bridge.	13
	ConRail	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28445 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3413]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Brutus, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Brutus, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulatiton in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board, in the Supervisor's office, 2686 East Brutus Street, Weedsport.

Any person having knowledge, information, or wishing to make a comment on these proposed elevattions should immediately notify Mr. David Coyle, Town Supervisor, 2686 West Brutus Street, Weedsport, N.Y. 13166.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Brutus, Cayuga County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet (national geodetic vertical datum)
Seneca River	Bonta Bridge	382
	State Route 34	383
	Upstream corporate limits.	384
Skaneatles Creek	Upstream of farm bridge.	384
	Upstream corporate limits.	385
Cold Spring Brook	Upstream of Stein Rd.	388
	Interstate 90 (upstream)	391
	ConRail	392
	West Brutus Rd.	396
	Erie Canal Aqueduct.	397
North Brook	Hamilton Rd.	401
	Upstream corporate limit.	417
North Brook tributary 1.	Hamilton Rd.	405
Putnam Brook	ConRail spur line (downstream)	395
	ConRail spur line (upstream)	399
	ConRail	405
	State Route 31	409
	State Route 31B	427
	Shepherd Rd.	436
	Jericho Rd. north	483
	Cooper Rd.	540
	Stevens Rd.	566
	Upstream corporate limits.	576
Putnam Brook Tributary No. 1	Shepherd Rd.	469
Putnam Brook tributary No. 2	Bibbens Rd. ford	489
	State Route 31B	523
Putnam Brook tributary No. 3	Jericho Rd.	526
	Upstream corporate limits.	550
Putnam Brook tributary No. 4	State Route 5	569
	Upstream corporate limits.	579

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Febraury 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28446 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3414]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Ellicottville, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Ellicottville, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1 West Washington Street, Ellicottville, N.Y. 14731.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Paul Stokes, Mayor of Ellicottville, N.Y. 14731.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Ellicottville, Cattaraugus County, N.Y. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gates Creek	Upstream corporate limits.	1,575
	Route 98	1,569
Ischua Creek	North corporate limits.	1,600
	Con Rail	1,589
	Northwest corporate limits.	1,583
	West corporate limits	1,580
	Route 98	1,570
	Con Rail	1,569
	Confluence of Gates Creek.	1,569
	Con Rail and Chutes Rd.	1,556
	Pierce Hill Rd	1,552
	5-Mile Rd	1,449
	Downstream corporate limits.	1,444

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28447 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3415]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Franklinville, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Franklinville, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Clerk's Office at the Franklinville Town Hall.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles J. Morton, Town Supervisor of Franklinville, Town Hall, Franklinville, N.Y. 14737.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Franklinville, Cattaraugus County, N.Y. 14737 in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Great Valley Creek.	Monroe St.	1,533
	Martha St.	1,535
	Confluence with Elk Creek:	1,536
	Miles St.	1,538
Elk Creek	Confluence with Great Valley Creek.	1,536
	Private Rd.	1,537
	Washington St.	1,539
	Elizabeth St.	1,539
	Park Dr.	1,544
Plum Creek	Confluence with Great Valley Creek:	1,530
	Jefferson St.	1,532
	Village boundary	1,600

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28448 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3416]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Fort Edward, Washington County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Fort Edward, Washington County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's Office, 118 Broadway, Fort Edward, N.Y. 12828.

Any person having knowledge, information, or wishing to make a comment on these proposed elevation should immeditely notify the Honorable Edith M. Amorosi, Mayor, Village of Fort Edward, P.O. Box 345, Fort Edward, N.Y. 12828.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Fort Edward, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1966 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in the flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Long Island Sound.	Cold Spring Harbor	12
	Eatons Neck	12
	Centerport Harbor	12
	Northport Harbor	12
	Crab Meadow	11
	Huntington Harbor	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28449 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3417]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Huntington, Suffolk County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Huntington, Suffolk County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Progarm (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Huntington Town Hall, in the lobby, 227 Main Street, Huntington, N.Y. 11743.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Kenneth C. Butterfield, Supervisor of Huntington, 227 Main Street, Huntington, N.Y. 11743.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Huntington, Suffolk County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River (east and west channel).	At south corporate limits.	123
Hudson River	At Brightwood St. extended.	130
	At north corporate limit.	134
Bond Creek	At Baldwin Ave	123

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28450 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3418]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oneonta, Otsego County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Oneonta, Otsego County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Municipal Building, Oneonta, N.Y. 13820.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable James F. Lettis, Mayor, City of Oneonta, Municipal Building, Oneonta, N.Y. 13820.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Oneonta, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	2,300 ft downstream of State Highway 205.	1,061
	100 ft downstream of Main St.	1,073
	Grand St.	1,081
	Downstream of dam above Glenwood Creek.	1,084
	600 ft upstream of dam above Glenwood Creek.	1,089
	120 ft upstream of abandoned railroad bridge.	1,097
	2,150 ft upstream of abandoned railroad bridge.	1,092
Oneonta Creek	50 ft upstream of confluence with Mill Race.	1,087
	35 ft downstream of Main St.	1,111
	375 ft upstream of Main St.	1,115
	55 ft upstream of Center St.	1,128
	Downstream of Spruce St.	1,131
	130 ft upstream of Spruce St.	1,138
	625 ft upstream of Spruce St.	1,143
	Upstream of Wilbur Park Rd.	1,150
	Upstream of High School Dr.	1,191
	475 ft upstream of High School Dr.	1,195
	1,100 ft upstream of High School Dr.	1,209
	City limit (1,500 ft upstream of High School Dr.).	1,211
Mill Race	River St.	1,079
	Downstream of Gas Ave.	1,084
	150 ft upstream of Gas Ave.	1,085
Silver Creek	25 ft upstream from Delaware and Hudson RR.	1,051
	125 ft upstream from Ford Ave.	1,122
	Upstream of Dietz St.	1,124
	Church St.	1,155
	500 ft upstream of Center St.	1,175
	450 ft upstream of Clinton St.	1,200
	At dam, 625 ft upstream from Clinton St.	1,215
	750 ft downstream from Ravine Parkway.	1,220
	45 ft upstream from Ravine Parkway.	1,255
	415 ft upstream from Ravine Parkway.	1,267
	1,700 ft upstream of Ravine Parkway.	1,320
	City limit (1,975 ft upstream from Ravine Parkway).	1,337
Glenwood Creek	50 ft downstream from I-88.	1,084
	120 ft downstream from Susquehanna St.	1,090
	Upstream from Susquehanna St.	1,097
	220 ft upstream from Delaware and Hudson RR.	1,107
	Rose Ave.	1,133
	Downstream from Main St.	1,164
	Upstream from Main St.	1,172
	49 ft downstream from private dam located 900 ft upstream of Main St.	1,215
	50 ft upstream from private dam located 900 ft upstream of Main St.	1,224
	City limit (1,650 ft upstream of Main St.).	1,270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28451 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3419]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Van Buren, Onondaga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Van Buren, Onondaga County, N.Y. These base flood elevations are the

basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Town Clerk's Office, 7575 Van Buren Road, Baldwinsville, N.Y. 13027.

Any person having knowledge, information or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Crandon, Town Supervisor of Van Buren, 7575 Van Buren Road, Baldwinsville, N.Y. 13027.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Van Buren, Onondaga County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Seneca River	ConRail	371
	County Route 690	378
	Upstream corporate limits.	381
Dead Creek	Kingdom Rd.	379
	Conners Rd.	382
	Hoag Rd.	388
	Dead Creek Rd.	390
	Warners Rd.	392
	Elderberry St.	405
	Interstate 90	409
	ConRail	410
	Upstream corporate limits.	411

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28452 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3420]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of East Spencer, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of East Spencer, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Henderson Street, East Spencer, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Thomas J. Poteat, Town Hall, Henderson Street, P.O. Box 338, East Spencer, N.C. 28039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of East Spencer, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Jackson Branch	Shaver St.[1]	690
	do.[2]	704
East Spencer High Creek.	Geoffrid St.[1]	687
	do.[2]	688
	Grant St.[1]	690
	do.[2]	697
Ice Plant Creek	Boundary St.[1]	672
	do.[2]	680
	Grant St.[1]	688
	do.[2]	690
Railroad Branch	Pine Tree Dr.[1]	674
	do.[2]	678
	Shaver St.[1]	699
	do.[2]	701

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28453 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3421]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Landis, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Landis, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 136 North Central Avenue, Landis, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Gene R. Beaver, P.O. Drawer 165, Landis, N.C. 28088.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Landis, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Mill Creek	Ryder Ave.[1]	823
	do.[2]	823
Beaver Creek	Beaver St.[1]	777
	do.[2]	782
	Chapel St.[1]	789
	do.[2]	792
Correll Creek	East Mills Dr.[1]	813
	do.[2]	825
Town Branch	Town St.[1]	792
	do.[2]	802
Grants Creek	Meriah St.[1]	811
	do.[2]	819

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28454 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3422]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Nash County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Nash County, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-plain areas and the proposed base flood elevations are available for review at County Courthouse, Main Street, Nashville, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. L. R. Holloman, Jr., County Manager, County Courthouse, Main Street, Nashville, N.C. 27856.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Nash County, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Swift Creek	Seaboard Coast Line RR.	93
	U.S. Route 301	96
	North Carolina Route 43.	116
	Interstate 95	117
	North Carolina Route 1003.	131
Compass Creek	North Carolina Route 1524.[1]	125
	do.[2]	123
Pig Basket Creek	North Carolina Route 1609.	123
	North Carolina Route 1003.[1]	128
	do.[2]	129
Stoney Creek	North Carolina Route 1544.[1]	117
	do.[2]	118
	North Carolina Route 1003.	123

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	North Carolina Route 1600.	132
	North Carolina Route 1003.	137
	North Carolina Route 1435.[1]	141
	do.[2]	142
	North Carolina Route 64 bypass.[1]	143
	do.[2]	144
	North Carolina Route 58[1]	146
	do.[2]	147
	U.S. Route 64 bypass.[1]	150
Maple Creek	North Carolina Route 1544.[1]	118
	do.[2]	119
	North Carolina Route 1603.[1]	165
Sapony Creek	do	132
	North Carolina Route 1717.[1]	132
	do.[2]	133
	North Carolina Route 1704.	139
	U.S. Route 58[1]	141
Tar River	North Carolina Route 1544.[1]	112
	do.[2]	113
	North Carolina Route 1745.	133
	North Carolina Route 1603.	133
	North Carolina Route 58.	135
	North Carolina Route 1933.	137
	North Carolina Route 1001.[1]	145
	do.[2]	146
	North Carolina Route 581.	155
	North Carolina Route 1145.	157
	U.S. Route 64	164
	North Carolina Route 1331.[1]	165
	do.[2]	166
Turkey Creek	North Carolina Route 1101.[1]	160
	do.[2]	161
	North Carolina Route 1105.	165
	Southern Railway[1]	165
	do.[2]	166
	U.S. Route 264[1]	167
	do.[2]	168

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28455 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3423]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lorain, Lorain County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Lorain, Lorain County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the first floor, on the Bulletin Board, outside the Clerk of the Council's Office, City Hall, 200 West Erie Avenue, Lorain.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph J. Rochoric, City Hall 200 West Erie Avenue, Lorain, Ohio 44052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Lorain, Lorain County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black River	Henderson Dr.	577
	Confluence of French Creek.	587
	31st St.	591
Martins Run	Sherwood Dr.	585
	Leavitt Rd.	601
	Oberlin Ave.	632
	Cooper Foster Rd.	669
	Broadway St.	688
Beaver Creek	U.S. Route 6	578
	Longbrook Rd.	590
36th St. ditch	Palm Ave.	634
	Clinton Ave.	638
	Pearl Ave.	639
Clinton Ave. ditch	Homewood Dr. (upstream).	639
	42d St. (upstream)	647
	North Ridge Rd.	678

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28456 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3424]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Niles, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Niles, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 34 West State Street, Niles, Ohio. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Arthur M. Doutt, City Hall, 34 West State Street, Niles, Ohio 44446.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Niles, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mahoning River	South Main St.	861
	ConRail	861
	Belmont Ave.	860
	McDonald Highway (Olive St.).	859
Meander Creek	Chessie system	861
	Route 46	861
Mosquito Creek	Route 422	868
	Federal St.	866
	Robbins Ave.	863
	ConRail	863
	Private bridge	863
	Chessie system	861
	East Park Ave.	861
	ConRail	861

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28457 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3425]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Durham, Bucks County, Pa.

AGENCY. Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Durham, Bucks County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Post Office, Durham, Pa. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. David Rau, Secretary of the Board of Supervisors of Durham, Pa. 18039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Durham, Bucks County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Cooks Creek	155
	Downstream corporate limit.	152
Cooks Creek	Coon Hollow Run	192
	Tributary No. 1	166
	Private road	155
	U.S. Route 61	155
	Pennsylvania Canal aqueduct.	155
	Delaware River	155

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28458 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3426]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of New Castle, Lawrence County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of New Castle, Lawrence County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base

flood elevations are available for review at the First Floor, New Castle City Hall, North Jefferson Street, New Castle, Pa. 16101.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Francis J. Rogan, Mayor of New Castle, New Castle City Hall, North Jefferson Street, New Castle, Pa. 16101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of New Castle, Lawrence County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mahoning River	Upstream corporate limit.	786
	ConRail bridge	782
	Confluence of Shenango River.	777
Shenango River	Upstream corporate limit.	805
	Confluence of Neshannock Creek.	800
	Mahoning Ave	793
	Route 422	784
	Confluence of Mahoning River.	777
Neshannock Creek	Upstream corporate limit.	860
	Paper Mill Rd	831
	Washington St	810
	Confluence of Shenango River.	800
Big Run	Upstream corporate limit.	822
	Moravia St	794

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28459 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3427]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Port Allegany, McKean County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Port Allegany, McKean County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board at the Borough Office Building.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Mark O. Griffith, Borough Manager, Borough Office Building, Port Allegany, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Port Allegany, McKean County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Allegheny River	U.S. Route 6	1,474
	Mill St	1,477
Lillibridge Creek	ConRail bridge	1,480
	Mill St	1,484
	Arnold Ave	1,506
	Upstream corporate limits.	1,543

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4129; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28460 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3393]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Reform, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Reform, Ala. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publi-

cation of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Reform, Ala. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor L. D. Vail, Town Hall, P.O. Box 431, Reform, Ala. 35481.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Reform, Ala., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Lubbub Creek tributary 1.	2d St.	233
	4th Ave.	239
	3d Ave.	229
Lubbub Creek	Illinois Central Gulf RR.	225
	U.S. Highway 82	226

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28461 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3394]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the City of West Helena, Phillips County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations (100-year flood) listed below for selected locations in the City of West Helena, Phillips County, Ark. Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 36089 on July 13, 1977, and in the Twin City Tribune published on April 27 and May 4, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Clerk's Office, Municipal Building, West Helena, Ark. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jesse E. Porter, 98 Plaza, West Helena, Ark. 72390.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed flood elevations (100-year flood) are listed below for selected locations in the City of West Helena, Phillips County, Arkansas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (Section 1917.4(a)).

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Caney Creek	Corporate limits downstream of Little Rock Rd.	209
	Upstream of Oakland Ave.	252
	Northernmost corporate limits.	260
Caney Creek, lateral A.	Upstream of southern corporate limits.	224
Caney Creek, lateral B.	Downstream of of Anderson Ave.	261
Caney Creek, lateral D.	Corporate limits	210
	Upstream of Achlar St.	223
Crooked Creek	Corporate limits	244
	Upstream of Kentucky St.	248
	Upstream of Anderson Ave.	255
	Upstream of North 6th St.	259
	Downstream of North 6th St.	271
Crooked Creek, lateral A.	Downstream of Hill Rd.	276
Crooked Creek, Crateral B.	Corporate limits	238
Crooked Creek, Clateral C.	——do——	236
	Upstream of Sebastian.	242
	Downstream of Plaza Ave.	255

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28462 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3395]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Costa Mesa, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the

City of Costa Mesa, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 77 Fair Drive, Costa Mesa, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Fred Sorsabal, City Manager, City of Costa Mesa, City Hall, 77 Fair Drive, Costa Mesa, Calif. 92626.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Costa Mesa, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet (national geodetic vertical datum)
Greenville-Banning Channel.	San Diego Freeway	32
	New Hampshire Dr.	30
	California St.	30
	Adams St.	20
	Victoria St.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1963), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28463 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3396]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations Mesa County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Mesa County, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Third and Rood Avenue, Grand Junction, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Howard Roland, Chairman, Board of County Commissioners, Mesa County, P.O. Box 897, Grand Junction, Colo. 81501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant. Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Mesa County, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Horizon Drive Channel.	G Rd.	4,703
	Horizon Dr.	4,661
	Upstream 7th St. (26½ Rd).	4,635
	Downstream 7th St. (26½ Rd.).	4,621
	25 Rd.	4,563
Leach Creek	Upstream Interstate Highway 70.	4,659
	Downstream Interstate Highway 70.	4,642
	G and 24½ Rd.	4,574
	U.S. Highways 6 and 50.	4,544
Colorado River	32 Rd.	4,627
	State Highway 340	4,555
	Appleton drain	4,524

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1963), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28464 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3045]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the Town of Trumbull, Fairfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Trumbull, Fairfield County, Conn. Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 34462 on July 5, 1977, and in the Trumbull Times published on June

30, 1977, and July 7, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Clerk's Office and the Town Engineers Office, Trumbull Town Hall, 5866 Main Street, Trumbull, Conn. 06611.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. James A. Butler, First Selectman, Town of Trumbull, Trumbull Town Hall, 5866 Main Street, Trumbull, Conn. 06611.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed flood elevations (100-year flood) are listed below for selected locations in the Town of Trumbull, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (section 1917.4(a)).

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Tributary A	Downstream of Colony Ave. culvert.	291
	50 ft downstream of Pondview Ave.	347
	Park Lane culvert	374
	Cart Rd.	395
Tributary B	Confluence with Canoe Brook Lake.	363
	Helena Rd.	374
	Upstream side, Old Village Lane.	400
	Upstream side, Madison Ave.	426
Tributary C	Vicinity of Sally Ann Rd.	374
	Dayton Rd.	386
Tributary D	Cart Rd.	312
	Vicinity of Velvet St.	327
	Cold Springs Rd.	450
	Essex Lane	457
Island Brook	Oldtown Rd.	173
	Upstream side of Merritt Parkway.	215
	Melrose Ave.	314
	Upstream side, Chestnut St.	345
Pequonnock River.	Oldtown Rd.	59
	White Plains Rd.	93
	Daniels Farm Rd.	110
	Whitney Ave.	203
	Monroe Turnpike	229
	Spring Hill Rd.	233
Tributary E	Bayberry Lane	60
	Dirt road	69
Tributary F	Upstream side, Norwood Ter.	172
	Upstream side, Church Hill Rd.	272
	Upstream side, Lillian Dr.	283
Belden Brook	Park St.	163
	Upstream side, Daniels Farm Rd.	243
	Harvest Hill Dr.	302
Tributary G	Upstream side, Broadway.	309
	Newtown Turnpike	302
Tributary H	Woodland Dr. (Cart Rd.).	334
	Vicinity of Doris St.	431
Tributary I	Newtown Turnpike	297
Tributary J	Springhill Rd.	315
North Farrar Brook.	Railroad	223
	Newtown Turnpike	321
	Field Rd.	335
Tributary K	Route 8	222
	Sheldon Rd.	223
	Golden Hill Rd.	237
Tributary L	Huntington Rd.	135
	Merritt Blvd.	143
Tributary M	Pinewood Trail	174
	Booth Hill Rd.	205
Tributary N	West Mischo Rd.	174
	Booth Hill Rd.	203
Booth Hill Brook	Old Dike Rd.	181
	Booth Hill Rd.	203
Booth Hill Brook	Old Dike Rd.	181
Tributary O	Intervale Rd.	91
	Nichols Ave.	141
Horse Tavern Brook	Corporate limit	227
	Downstream side of Merritt Parkway culvert.	227
	Chestnut Hill Rd.	276
	Black House Rd.	292

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28465 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3397]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Newport, Del.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Newport, Del. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 205 North Marshall Street, Newport, Del.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John S. Hanna, Jr. Town Hall 205 North Marshall Street, P.O. Box 3053, Newport Del. 19804.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Newport, Del., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Christina River....	State Routes 41 and 141 (upstream side).	15
	State Routes 41 and 141 (downstream side).	14

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28466 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3398]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the County of Kankakee, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the county of Kankakee, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Kankakee County Regional Planning Office, 435 Oak, Kankakee, Ill.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Roy M. West, Chairman of the Board of Supervisors of Kankakee County, Kankakee County Courthouse, Kankakee, Illinois 60901.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the county of Kankakee, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Kankakee River....	Kankakee County line.	556
	Rock Creek	569
	Wilbey Creek	585
	Davis Creek	592
	Interstate 57	607
	ConRail RR	608
	Farr Creek	611
	Maple Island	612
	Momence corporate limit east.	617
	Trim Creek	623
	ConRail	625
	Shadow Lawn	626
	Lilliana Heights	628
	Kankakee County and Indiana State line.	630
Iroquois River....	Confluence with Kankakee River.	603
	Mininie Creek	612
	Sugar Island	616
	Deer Creek	617

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28467 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3399]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Peoria County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Peoria County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board at the Courthouse, Peoria County Courthouse, 300 Main Street, Peoria, Ill.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Ray A. Neumann, Chairman of Peoria County Board, 300 Main Street, Peoria County Courthouse, Peoria, Ill. 61602.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Peoria County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1966 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Illinois River	Downstream County boundary.	455
	City of Kingston Mines.	457
	Chicago and Northwestern Railway (M151.2).	458
	Peoria lock and dam	459
	Upstream county boundary.	461
Kickapoo Creek	Downstream of Adams St.	460
	Adams St.	464
	Illinois Highway 116	478
	Farmington Rd.	484
	Johnson Rd.	486
	Main St. (extended)	490
	Confluence of Big Hollow Creek.	493
	U.S. Interstate 474	494
	Koerner Rd. (extended).	495
	Confluence of Deer Lick Run.	505
	New County Rd. 18	507
	Illinois Highway 8	510
	Confluence of Warsaw Run.	513
	Confluence of Rupp Run.	516
	Kramm Rd.	519
	Confluence of Nixon Run.	520
	Confluence of west fork, Kickapoo Creek.	528
	U.S. Interstate 74	531
	U.S. Interstate 150	535
	Confluence of Jubilee Creek.	540
	County Rd. No. 5	546
	Confluence of Fargo Run.	549
	County Rd. No. 21	560
Spoon River	Downstream county boundary.	608
	County Rd. No. 6	610
	White Rd.	614
	Illinois Highway 78	618
	Laura Rd.	621
	Maher Rd.	625
	Upstream county boundary.	626

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28468 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3400]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lindsborg, McPherson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Lindsborg, McPherson County, Kans. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP)

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Lindsborg, Kan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Alden Shields, City Administrator of Lindsborg, City Hall, Lindsborg, Kans. 67450.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Lindsborg, McPherson County, Kans., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are;

Source of flooding	Location	Elevation in feet above mean sea level
Cow Creek	North corporate limit	1,321
	Columbus St.	1,324
	Swenson St.	1,327
	Madison St.	1,328
	2d St.	1,330
	Grant St.	1,331
	West corporate limit	1,334
Smoky Hill River	East corporate limit	1,325
	2d St. (extended)	1,326
	South corporate limit	1,326
West fork, Cow Creek.	North corporate limit	1,324
	West corporate limit	1,326

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28469 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3401]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Beattyville, Lee County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Beattyville, Lee County, Ky. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Judge's Office in the basement of the County Jail, Main Street, Beattyville, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Charles Beach III, Peoples Exchange Bank, Beattyville, Ky. 41311.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Beattyville, Lee County, Ky. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Kentucky River	Confluence of Mirey Creek.	668
	Confluence of Silver Creek.	669
North fork, Kentucky River.	State Route 11	670
	Upstream corporate limits (extended).	672
Mirey Creek	Confluence with Kentucky River.	668
	0.33 mi above mouth	668
	0.4 mi above mouth	675
	Upstream of State Route 52.	683
	Mirey Creek Rd.	696
Crystal Creek	Main St.	669
	Locust St.	669
	1.14 mi above mouth	671
Silver Creek	Main St.	669
	Silver Creek Rd. at 0.56 mi above mouth.	669
	Silver Creek Rd. 0.72 mi above mouth.	680
	0.95 mi above mouth	696

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

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PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28470 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3402]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Clayton, Concordia Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Clayton, Concordia Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Clayton, Concordia Parish, La. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tensas River	Upstream of Louisiana Highway 15.	63
Ditch No. 1	Upstream of Marlett Lane.	60
	Downstream of U.S. Highway 65.	60
Ditch No. 2	Downstream of McAdams St.	58
	Downstream of U.S. Highway 65.	58

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28471 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-3403]

[24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Columbia, Caldwell Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Columbia, Caldwell Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will

be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Columbia, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor James G. Sherman, P.O. Box 101, Columbia, La. 71418.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Columbia, Caldwell Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ouachita River	Intersection of Kentucky (U.S. Highway 165) and the northeastern corporate limits.	73
Lower sump	East Pearl St.	57
Upper sump	West Pearl St.	65
	Intersection of Boyd and Wall St.	65

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28472 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3404]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Iberville Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the unincorporated areas of Iberville Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comments will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Police Jury Office, Iberville Parish, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify President of the Police Jury Salvador Cardinal, P.O. Box 326, White Castle, La. 70788.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the unincorporated areas of Iberville Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Eastern parish limits	36
	Upstream of the town of White Castle.	38
	Upstream of the city of Plaquemine.	42
Bayou Paul	Upstream of Bayou Paul Lane.	17
	Downstream of Route 327.	23
Bayou Maringouin	Upstream of Sparks St.	19
	Downstream of Maringouin.	19
Lower Grand River	Pigeon	6
	Bayou Sorrel locks	7
Mound ditch	Confluence with Lower Grand River.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28473 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3405]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Melville, St. Landry Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Melville, St. Landry Parish, La. These base flood elevations are the basis for the flood plain management meas-

ures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Melville, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph Artall, P.O. Box 268, Melville, La. 71353.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Melville, St. Landry Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atchafalaya River	4th St. (extended to corporate limits).	46
	Intersection of the Texas and Pacific RR. with the eastern corporate limits.	46
Ponding	Melville ring levee sump area.	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28474 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3406]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Brewer, Penobscot County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Brewer, Penobscot County, Maine. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, City Hall, 80 North Main Street, Brewer, Maine 04401.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Earle D. Stevens, City Manager, City of Brewer, City Hall, 80 North Main Street, Brewer, Maine 04412.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581), or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Brewer, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Penobscot River	Downstream corporate limits.	14
	Downstream of State Route 1A.	17
	Downstream of State Route 9.	18
	Downstream of Bangor waterworks dam.	21
	Upstream of Bangor waterworks dam.	30
	At the upstream corporate limits.	32
Felts Brook	317 ft upstream from confluence with Penobscot River.	21
	At State Route 9	32
	2,720 ft upstream from State Route 9.	33
	80 ft kownstream of Eastern Ave.	76
	200 ft upstream from Eastern Ave.	79
	5,300 ft upstream from Eastern Ave.	82
	Downstream of State Route 1A.	83
	Downstream of Maine Central RR.	84
Sedgeunkedunk Stream.	At State Route 15 culvert.	14
	55 ft downstream from Maine Central RR.	17
	50 ft upstream from Maine Central RR.	23
	Upstream of Elm St.	24
	Downstream of Concrete Dam.	27
	Upstream of Concrete Dam.	40
	At the upstream corporate limis.	41
Eaton Brook	At the confluence with Penobscot River.	31
	At State Route 9	31
	2,244 ft upstream of State Route 9.	33

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28475 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3407]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Acton, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Acton, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Main Street, Acton, Mass. Any person having knowledge, information, or wishing to make a comment on those proposed elevations should immediately notify Mr. Christopher J. Farrell, Town Manager, Town of Acton, P.O. Box 236, Acton, Mass. 01720.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Acton, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Conant Brook	Musket Dr	223
	Newton Rd	196
	Negeg Hill Rd	195
	Main St	148
Nashoba Brook	Main St	172
	Carlisle Rd	170
	Wheeler Lane Dam	168
	Dam	153
	ConRail	147
	Great Rd	144
	Brook Street Dam	141
	Brook St	139
	ConRail	129
	do	133
	Concord Rd	133
	Concord Road Dam	137
	ConRail	123
	Wetherbee St	128
	Acorn structures	127
Tributary 2	Fernwood Rd	151
Tributary 1	Arborwood Rd	151
	Brucewood Rd	151
Cole's Brook	Sandalwood Rd	150
	Robinwood Rd	147
	Hosmer St	143
	School Street Dam	133
	School St	133
Pratt's Brook	Boston and Maine RR.	143
Fort Pond Brook	do	206
	Arlington St	204
	Route 111	203
	Boston and Maine RR.	202
	Central St	201
	Martin St	199
	Stow St	198
	Boston and Maine RR.	195
	Route 27	195
	Erikson Dam	194
	Boston and Maine RR.	181
	Cement Dam	178
	River St	156
	do	151
	Merriam Dam	151
	River St	139
	Parker St	135
	Laws Brook Rd	123
Assabet River	Old High St	146
	Powder Mill Dam	146
	Route 62	134

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28476 Filed 9-30-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3408]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Lincoln, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Lincoln, Middlesex County, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Lincoln, Mass. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Chairman of the Board of Selectmen Harold A. Levey, Jr., Bedford Road, Lincoln, Mass. 01773.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, Southwest., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Lincoln, Middlesex County, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub.L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sudbury River.....	Upstream of Lee Bridge.	122
Farrar Pond Brook..	Downstream of South Great Rd.	125
	Downstream of the wooden foot bridge.	138
Pole Brook.....	Upstream of Concord Rd. (Route 126).	158
	Upstream of Lincoln Rd.	168
Hobbs Brook.....	Upstream of Mill St....	174
Stony Brook.....	Upstream of Tower Rd.	172
	Upstream of Pierce Hill Rd.	199
	Upstream of Sandy Pond Rd.	230
Valley Pond.....	Southern corporate limit, just west of Conant Rd.	176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended. (39 FR 2787, January 24, 1974).)

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PATRICIA ROBERTS HARRIS,
Secretary.

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[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3409]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Wisner, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of Wisner. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Office, 9384 West Bay City-Forestville Road, Fairgrove, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward Duke, Supervisor, Township of Wisner, Township Office, 9384, West Bay City-Forestville Road, Fairgrove, Michigan 48733.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the township of Wisner, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw Bay.....	Shore end—Allen Rd/.	585
	Manke Rd.....	585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

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PATRICIA ROBERTS HARRIS,
Secretary.

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federal register

MONDAY, OCTOBER 3, 1977
PART III

ENVIRONMENTAL PROTECTION AGENCY

■

STATIONARY GAS TURBINES

Standards of Performance for New Stationary Sources

[6506-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 777-8]

STATIONARY GAS TURBINES

Standards of Performance for New Stationary Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The proposed standards would limit emissions of nitrogen oxides and sulfur dioxide from new, modified and reconstructed stationary gas turbines to 75 ppm and 150 ppm, respectively. A new reference method for determining the concentration of nitrogen oxides, sulfur dioxide and oxygen in the exhaust gases from stationary gas turbines is also proposed. The standards implement the Clean Air Act and are based on the Administrator's determination that stationary gas turbine emissions contribute significantly to air pollution. The intended effect is to require new, modified and reconstructed stationary gas turbines to use the best demonstrated system of emission reduction.

DATES: Comments must be received on or before December 2, 1977.

ADDRESSES: Comments should be submitted, preferably in triplicate, to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, Attention: Mr. Don R. Goodwin.

The Standards Support and Environmental Impact Statement (SSEIS) containing the data and information upon which the proposed standards are based may be obtained from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460 (specify "Standards Support and Environmental Impact Statement, Volume 1: Proposed Standards of Performance for Stationary Gas Turbines").

The SSEIS and all public comments received may be inspected and copied at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone No. 919-541-5271.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would apply to all new, modified and reconstructed stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (about 1,000 horsepower). The standards would apply to simple and regenerative cycle gas turbines and to the gas turbine portion of a combined cycle steam/electric generating system.

The proposed standards would limit the concentration of nitrogen oxides (NO_x) in the exhaust gases from stationary gas turbines to 0.0075 percent by volume (75 ppm) at 15 percent oxygen on a dry basis. This emission limit would be adjusted upward for turbines with thermal efficiencies greater than 25 percent and upward for turbines burning fuels with a nitrogen content greater than 0.015 percent by weight.

The proposed standard would be referenced to International Standard Organization (ISO) standard day conditions of 288 degrees Kelvin, 60 percent relative humidity, and 101.3 kilopascals (1 atmosphere) pressure. Measured NO_x emission levels, therefore, would be adjusted to ISO reference conditions by use of an ambient condition correction factor included in the standard or by a custom ambient condition correction factor developed by the gas turbine manufacturer, owner, or operator and approved for use by EPA. Manufacturers, owners, or operators electing to develop custom ambient condition correction factors, however, would be required to develop such factors in terms of the following variables: combustor inlet pressure, ambient air pressure, ambient air humidity, and ambient air temperature. All correction factors would have to be substantiated with data and approved for use by the Administrator before they could be used for determining compliance with the proposed standard.

Stationary gas turbines with a heat input at peak load from 10.7 to, and including, 107.2 gigajoules per hour would be exempt from the NO× emission limit for five years from the date of this proposal. Emergency-standby gas turbines, military gas turbines and firefighting gas turbines would be exempt permanently from the NO× emission limit. In addition, stationary gas turbines using wet controls would be exempt temporarily from the NO_x emission limit during those periods when ice fog created by the gas turbine was deemed by the owner or operator of the gas turbine to present a traffic hazard. None of the exemptions mentioned in this paragraph would apply to the SO_2 emission limit.

The proposed standards would limit the SO_2 concentration in the exhaust gases from stationary gas turbines to 0.015 percent by volume (150 ppm) corrected to 15 percent oxygen on a dry basis, or would limit the sulfur content of the fuel used by any stationary gas turbine to 0.8 percent by weight.

Summary of Environmental and Economic Impacts

The proposed standards would reduce NO_x emissions from stationary gas turbines by about 70 percent. Based on industry growth projections, by 1982 a reduction in national NO× emissions of about 190,000 tons per year would be realized. By 1987, the reduction in national NO_x emissions would reach about 400,000 tons per year.

The adverse water pollution impact of the proposed standards would be minimal. The quantity of water or steam required for injection into the gas turbins to reduce NO× emission would be small, less than 5 percent of the water consumed by a comparable size steam/electric power plant using cooling towers.

The solid waste impact of the proposed standards would be negligible. There would also be no adverse noise impact resulting from the proposed standards.

The energy impact of the proposed standards would be small. Gas turbine fuel consumption would be increased from 0 to 5 percent, depending largely on the rate of water injection required to comply with the proposed NO_x standard. There would be no energy impact associated with the proposed SO_2 standard. Few turbines will require the high water injection rates (about 1:1 water-to-fuel ratios) which result in a 5 percent fuel penalty. Assuming that all stationary gas turbines subject to the proposed NO_x standard would require a 1:1 water-to-fuel ratio, the fifth year (1982) energy impact of the standard on large stationary gas turbines would be an increase in fuel consumption of about 5,500 barrels of fuel oil per day. The fifth-year (1987) energy impact of the NO_x standard on small stationary gas turbines would be an increase in fuel consumption of about 7,000 barrels of fuel oil per day. This is equivalent to an increase in projected 1982 and 1987 national crude oil consumption of less than 0.03 percent. These estimates are based on assumptions which yield the greatest energy impacts and actual impacts are expected to be much lower.

The economic impact of the proposed standards is considered to be reasonable. The proposed standards would increase the capital costs or purchase price of a gas turbine for most installations by about 1 to 4 percent. For offshore applications, however, such as oil and gas drilling platforms, the increase could be as much as 7 percent. The annualized costs for a gas turbine in all applications would be increased by about 1 to 4 percent, with the largest application, utilities, realizing less than a 2 percent increase.

The proposed standards would increase the total capital investment requirements for all users of large stationary gas turbines by about 36 million dollars by 1982. For the period 1982 through 1987, the standards would increase the capital investment requirements for all users of both large and small stationary gas turbines by about 67 million dollars. Total annualized costs would be increased by about 11 million dollars in 1982 and by about 30 million dollars in 1987. These impacts would result in price increases for the end products or services provided by industrial and commercial users of stationary gas turbines ranging from less than 0.01 percent in the petroleum refining industry to about 0.1 percent in the electric utility industry.

The criteria for an action to be considered major, thereby requiring development of an Economic Impact Analysis (EIA) are: (1) an increase in the fifth-year annualized costs of 100 million dollars, (2) a major product price increase of 5 percent, or (3) an increase in national energy consumption of 25,000 barrels of fuel oil per day. The impacts resulting from the proposed standards would not exceed these criteria, except possibly for offshore applications, where the proposed standards could increase the price of a gas turbine by about 7 percent. Most gas turbines used on offshore oil and gas drilling platforms, however, are likely to have a heat input at peak capacity of less than 107.2 gigajoules per hour (about 10,000 horsepower). Consequently, they would be considered small gas turbines and would be exempt from the standards for five years. In any event, stationary gas turbines sold for offshore applications constitute such a small percentage (estimated at less than 3 percent) of the overall market for gas turbines that they are not considered a major product within the intent of the 5 percent major product price increase criteria for preparation of an EIA. Consequently, the proposed standards would not constitute a major action and no EIA has been prepared.

RATIONALE

SELECTION OF SOURCE FOR CONTROL

Assuming existing levels of emission controls, national NO_x emissions from stationary sources are projected to increase by about 65 percent by 1985. Applying best technology to all new sources would reduce this increase to about 25 percent, but would not prevent it from occurring. This unavoidable increase in NO_x emissions is attributable largely to the fact that few of the NO_x emission control techniques currently available can achieve large reductions in NO_x emissions. Consequently, EPA has assigned a high priority to the development of standards of performance for major NO_x emission sources wherever significant reductions in NO_x emissions can be achieved.

Several studies sponsored by EPA have ranked stationary gas turbines as major controllable sources of NO_x emissions. One study conducted by the Aerotherm Division of Acurex Corporation estimated that oil-fired and gas-fired stationary gas turbines accounted for 2.5 percent of the total NO_x emissions from stationary sources in the U.S. in 1972. This same study ranked gas-fired turbines as sixteenth and oil-fired gas turbines as twenty-third in a priority listing of 137 controllable stationary sources of NO_x emissions.

In another study the Research Corp. of New England (TRC) determined the impact which standards of performance would have on nationwide emissions of particulates, NO_x, SO_2, HC (hydrocarbons), and CO (carbon monoxide) from stationary sources. Sources were then ranked according to the impact a standard promulgated in 1975 would have on emissions in 1985. This ranking placed gas turbines first on a list of 40 stationary NO_x emission sources and eighth on a list of 41 stationary SO_2 emission sources.

In 1974, 90 percent of all domestic stationary gas turbine capacity was sold to the electric utility market, primarily for use as peaking units. It is expected that this large percentage of sales to utilities will continue in the future due to the many advantages of gas turbines as peaking units. In addition, gas turbine peaking units are often located in large urban centers where power demands are greatest and pollution problems are often most severe.

Stationary gas turbines, therefore, are significant contributors to total nationwide emissions of NO_x. They are ranked high on the various listings of sources for which standards of performance should be developed. In addition, the turbines coupled with the probability that many gas turbines will be installed near large urban centers underscores the need for standards of performance for stationary gas turbines. Consequently, stationary gas turbines were selected for development of standards of performance.

SELECTION OF POLLUTANTS

The pollutants emitted from stationary gas turbines are particulates, NO_x; SO_2, CO and HC. Combustor modifications (dry control) and water injection (wet control) are demonstrated techniques for reducing NO_x emissions at reasonable cost and depending on specific emission level selected, could reduce NO_x emissions by up to 190,000 tons per year in 1982. This is a significant decrease in total nationwide NO_x emissions. For these reasons, NO_x emissions from stationary gas turbines were selected for control by standards of performance.

SO_2 emissions from stationary gas turbines depend on the sulfur content of the fuel since nearly 100 percent of the fuel sulfur is converted to SO_2 during the combustion process. Due to the high volumes of exhaust gases, the cost of flue gas desulfurization (FGD) to control SO_2 emissions from stationary gas turbines is considered unreasonable. Control of SO_2 emissions, therefore, would require combustion of low sulfur fuels rather than the application of FGD. Selection of low sulfur fuels, however, is considered reasonable. Since gas turbines are a major source of SO_2 emissions and firing low sulfur fuels is considered an economically feasible control technique, SO_2 emissions from stationary gas turbines were selected for control by standards of performance.

HC and CO emissions from stationary gas turbines operating at peak load are relatively low because the higher the percentage of peak load at which a turbine operates, the more efficient the combustion of the fuel. Gas turbines normally operate at 80 to 100 percent of peak load with HC emissions averaging less than 50 ppm and CO emissions averaging less than 500 ppm at 15 percent oxygen. HC and CO emissions from stationary gas turbines, therefore, were not selected for control by standards of performance.

Particulate emissions from stationary gas turbines depend on the ash content of the fuel and are minimal. Consequently, particulate emissions from stationary gas turbines were not selected for control by standards of performance.

SELECTION OF AFFECTED FACILITIES

Stationary gas turbines can be used in three different configurations: simple cycle, regenerative cycle, and combined cycle. All of these configurations emit NO_x and SO_2, and all can be controlled for NO_x emissions by water injection or dry controls and for SO_2 by the firing of low sulfur fuels. Consequently, simple cycle gas turbines, regenerative cycle gas turbines and the gas turbine portion of combined cycle steam/electric generating systems were selected as the affected facilities for standards of performance limiting NO_x and SO_2 emissions.

Gas turbines can burn either liquid or gaseous fuels. Dry and wet control techniques for the control of NO_x can be applied to gas turbines regardless of the type of fuel burned. Similarly, the firing of low sulfur fuel for the control of SO_2 emissions can be applied to gas turbines regardless of the type of fuel burned. EPA recognizes the fact that at the present time gas turbines firing coal-derived fuels probably could not meet the standards of performance. Coal-derived fuels, however, will not be available in commercial quantities to gas turbines for at least ten years and EPA feels that by that time the emission control technology for clean firing of these fuels could be developed. Consequently, gas turbines burning all types of fuels are selected as affected facilities for standards of performance.

For many applications up to about 10,000 hp stationary gas turbines compete with internal combustion engines. A standard of performance on one of these industries and not the other would tend to give the non-regulated industry a competitive advantage to some extent.

Currently, standards of performance are being developed for stationary internal combustion engines. Although relatively few internal combustion engines of greater than 1,000 hp are produced, these engines are responsible for 75 percent of the total NO_x emissions from stationary internal combustion engines. Under 1,000 hp, however, the number of internal combustion engines produced increases tremendously and enforcement of standards of performance would not be feasible in the absence of a certification program similar to that for automobiles. Since the Clean Air Act does not permit standards of performance to be enforced by a certification program, a lower size cutoff of 1,000 hp for standards of performance for stationary internal combustion engines is considered appropriate. Consequently, to be consistent a lower size cutoff of 10.7 gigajoules per hour heat input (about 1,000 hp) is selected for standards of performance for

stationary gas turbines. Gas turbines less than 10.7 gigajoules per hour heat input (about 1,000 hp) account for less than 10 percent of the total NO_x emissions from stationary gas turbines. Below this cutoff the standards limiting NO_x and SO_2 emissions would not apply.

Some stationary gas turbines are operated as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation. This type of gas turbine operates infrequently, usually only for checkout and maintenance; therefore, it contributes only a very small amount to total nationwide NO_x emissions. There also could be operational problems with the water injection system due to the long periods of non-operation. Consequently, emergency-standby stationary gas turbines were exempted from standards of performance limiting NO_x emissions.

Stationary gas turbines could contribute to the creation of ice fog, which consists of small ice crystals which are nucleated by airborne particulate. Ice fog occurs at temperatures below −28° C and is a serious problem in only a small portion of the United States, primarily Alaska. Ice fog severely restricts visibility and, since the crystals are long-lived, can plague auto and air traffic for extended periods. The actual impact of water or steam injection into gas turbines on the formation of ice fog is unknown; however, water or steam injection will increase the moisture content of the exhaust gas discharged by gas turbines. Since ice fog occurs only in a small portion of the United States and only under special weather conditions, the impact on air quality due to increased NO_x caused by exempting gas turbines creating ice fog would be minimal. Therefore, gas turbines using water or steam injection for control of NO_x emissions would be exempt from the standards limiting NO_x emissions when ice fog created by the gas turbine is deemed by the owner or operator of the gas turbine to be a traffic hazard.

Stationary gas turbines are sometimes used by the military in combat-type situations. The main advantage of these turbines is their mobility, which would be considerably restricted by a water injection system consisting of either water treatment equipment or a water storage vessel. Restriction of the mobility of these gas turbines could have an adverse effect on national defense; therefore, any military combat-type gas turbine for use in other than a garrison facility is exempt from the standards limiting NO_x emissions.

The possibility of exempting some gas turbines from the standard limiting SO_2 emissions was also examined. Except for exempting all turbines of less than 10.7 gigajoules per hour heat input (about 1,000 hp), no exemptions were considered necessary.

SELECTION OF THE BEST SYSTEM OF EMISSION REDUCTION

There are three possible control techniques for reducing NO_x emissions from stationary gas turbines: wet controls, dry controls, and catalytic exhaust cleanup. Wet controls involve the injection of water or steam into the combustion reaction to reduce peak flame temperatures, thereby reducing NO_x formation. Wet control techniques have been demonstrated on a few large gas turbines (greater than 10,000 hp) used in utility and industrial applications. These installations have had good reliability over long periods of operation. Wet controls, however, have not been applied to small production gas turbines (less than 10,000 hp), although the effectiveness of these techniques for small gas turbines has been demonstrated in laboratory and combustor rig tests. Thus, wet controls can be applied immediately to large stationary gas turbines, but manufacturers estimate that at least three years would be required to incorporate and test wet control techniques on small production gas turbines.

Dry controls consist of operational or design modifications which govern combustion conditions to reduce NO_x formation. Although dry controls have been demonstrated in laboratory and combustor rig tests, manufacturers estimate that up to five years is required for further development, design, test, and incorporation of dry controls on large and small stationary gas turbines.

Catalytic exhaust gas cleanup consists of NO_x reduction by ammonia in the presence of a catalyst. While laboratory tests are very promising, this technique is not demonstrated for stationary gas turbines.

The NO_x emission reduction achievable with wet and dry control techniques clearly favors the development of standards of performance based on wet controls. Reductions in NO_x emissions of more than 70 percent have been demonstrated using wet controls. Dry controls, however, have demonstrated NO_x emission reductions of only about 30 percent.

Standards of performance based on wet controls would reduce national NO_x emissions by about 190,000 tons per year in 1982. In contrast, standards of performance based on dry controls would have no impact on national NO_x emissions in 1982, due to the necessity of allowing a five-year delay to incorporate dry controls on gas turbines. By 1987, standards based on wet controls would reduce national NO_x emissions by about 400,000 tons per year, whereas standards based on dry controls would reduce NO_x emissions by only about 90,000 tons per year. Thus, standards of performance based on wet controls would have a much greater impact on national NO_x emissions than standards based on dry controls.

The water pollution impact of standards based on wet controls would be minimal. Water needed for wet controls may be treated by the same processes used to treat steam boiler make-up water. The quality of the wastewater from this treatment is essentially the same as the influent water except that the concentration of total dissolved solids in the effluent stream is 3 to 4 times that of the influent. In most cases, the effluent may be sewered directly or returned to the river supplying the water. Where this is not possible, the effluent may be discharged to an evaporation pond. Consequently, the water pollution impact of standards based on wet controls would be minimal.

The quantity of water required by a stationary gas turbine using wet controls is relatively small. The upper limit water-to-fuel ratio of about 1 : 1 requires only about 5 percent of the quantity of water consumed by a comparable size steam boiler using cooling towers. A water treatment system for five 28 MW stationary gas turbines operating 10 hours per day using a water-to-fuel ratio of 1 : 1, for example, would treat 125,000 gallons of water and reject about 25,000 gallons of wastewater per day. A steam boiler of comparable size with cooling towers would consume 20 times as much water. In fact, the usage rate of water for wet controls is small enough that the unlikely prospect of having to truck water 50 miles was determined to be economically reasonable as discussed below. Standards based on dry controls, however, would have no impact on water pollution or water supplies.

Standards based on wet controls would have a negligible solid waste impact. Also, there would be no adverse noise impact resulting from standards based on either wet or dry controls.

The potential energy impact of standards based on wet controls is small. Standards based on wet controls could increase the fuel consumption of a gas turbine from 0 to 5 percent, depending on the rate of water injection required to comply with the standard. Few turbines will require the high water injection rates (about 1 : 1 water-to-fuel ratios) which result in a 5 percent fuel penalty. Assuming, however, that all stationary gas turbines subject to compliance with standards would require a 1 : 1 water-to-fuel ratio, the energy impact on large stationary gas turbines would be an increase in fuel consumption of about 5500 barrels of fuel oil per day in 1982. The energy impact on small stationary gas turbines would be an increase in fuel consumption of about 7,000 barrels per day of fuel oil in 1987, as a result of the delayed effective date of the proposed standards on small turbines. Each increase represents less than a 0.03 percent increase in projected crude oil consumption in the United States in 1982 and 1987. It should also be recognized that these estimates are based on assumptions which yield the greatest energy impacts. Actual energy impacts are expected to be much lower. The energy impact of standards based on wet controls, therefore, would be minimal. Standards based on dry controls, however, would have no energy impact.

Although wet controls would result in a small adverse impact on gas turbine efficiency, the costs associated with this increased fuel consumption for some applications may be partially offset by an increase in the gas turbine's rated power output capability. aBsed on manufacturer's estimates, gas turbine baseload

capacity will be increased by 3 to 4 percent as a result of water injection. In applications where turbines are operated at maximum capacity, such as utility power generation and pipeline compressors stations, this increased baseload capacity essentially reduces the installed costs per kilowatt by the percentage increase in the capacity of the unit, thus slightly reducing the cost impact of standards based on wet controls.

The economic impacts associated with standards based on either wet or dry controls would be small and are considered reasonable. Dry control costs are difficult to quantify. Many manufacturers, however, have indicated that the cost of dry controls would not exceed the cost of wet controls. Consequently, the analysis of the economic impact of standards of performance was based on the costs of wet controls and assumes that the costs of dry controls, and hence the economic impact of standards based on dry controls, would be comparable. Standards of performance, therefore, based on either wet or dry controls would increase the capital cost of a gas turbine for most applications by about 1 to 4 percent. For offshore industrial applications where desalinization equipment is required to provide water for wet controls, standards would result in a 7 percent increase in the capital cost of a gas turbine. The annualized costs for a stationary gas turbine in all applications would be increased by about 1 to 4 percent, with utility applications realizing less than a 2 percent increase.

Although it is unlikely that a stationary gas turbine would, of necessity, be installed in an arid area, an analysis was performed which assumed that water would have to be transported to the gas turbine site by truck over a distance of 50 miles. This unlikely situation would result in less than a 4 percent increase in the annualized cost of the gas turbine.

Standards of performance based on wet controls would increase the total capital investment requirements for all industrial and commercial users of large stationary gas turbines (greater than 10,000 hp) by about 36 million dollars by 1982. Total annualized costs would be increased by about 11 million dollars per year in 1982. Standards of performance based on wet controls would have an additional economic impact on users of small stationary gas turbines (less than 10,000 hp) beginning in 1987. Thus, for the period of 1982 through 1987, the capital investment requirements for all stationary gas turbine users would be about 67 million dollars. The total annualized costs would be about 30 million dollars by 1987. These impacts would translate into price increases for the end products or services provided by these industrial and commercial users of stationary gas turbines ranging from less than 0.01 percent in the petroleum refining industry to about 0.1 percent in the electric utility industry. Thus, the economic impact of standards of performance based on wet controls would be very small.

Standards of performance based on dry controls would have no economic impact by 1982. Following 1982, however, the economic impact of standards based on dry controls would be comparable to that of standards based on wet controls.

Based on this assessment of the impacts of standards of performance based on wet controls and dry controls, wet controls were selected as the "* * * best system of emission reduction (considering cost) * * *" for reduction of NO_x.

There are two possible control techniques for reducing SO_2 emissions from stationary gas turbines: flue gas desulfurization (FGD) and the firing of low sulfur fuels. FGD, however, would cost about two to three times as much as the gas turbine. The economic impact of standards of performance for stationary gas turbines based on FGD, therefore, is not considered reasonable.

Low sulfur fuels, such as premium distillate oils or natural gas, are now being burned by nearly all stationary gas turbines. These premium fuels are being burned primarily because the increased maintenance costs associated with firing heavy fuel oils are greater than the savings that would be realized by buying these cheaper heavy or residual fuel oils. Over the next five to ten years, however, as oil prices continue to escalate, the price differential between premium distillate fuel oils and heavy fuel oils will probably increase and the economic incentive to burn the premium fuels will probably become marginal.

In this situation and in the absence of regulations requiring stationary gas turbines to fire specific fuels, the choice between firing either premium distillate fuel oils or heavy fuel oils will likely be decided on the basis of the relative convenience and availability of these fuels. Premium distillate fuel oils are more convenient to burn than heavy fuel oils because they have a lower viscosity and are easier to handle. Heavy fuel oils frequently require heating, for example, to reduce their viscosity to the point where they can be readily pumped from one location to another. Even if the price differential between premium distillate fuel oils and heavy fuel oils were to increase to the point where the firing of heavy fuel oils was marginally attractive, the greater inconvenience of scheduling and performing the additional maintenance would probably cause a gas turbine owner or operator to choose to fire the premium distillate fuel oil. On the basis of convenience, therefore, stationary gas turbines are likely to continue firing premium distillate fuel oils even if the economic incentive to do so becomes marginal.

The impact on ambient air quality of standards of performance based on the firing of low sulfur premium distillate fuel oils in gas turbines, therefore, would be negligible. The economic impact would also be negligible for the same reason and there would be no water, energy, solid waste or noise impact associated with standards based on the firing of low sulfur premium distillate fuel oils.

Based on this assessment of the impacts of standards of performance based on the firing of low sulfur fuel oils, this control technique is selected as "* * * the best system of emission reduction (considering costs) * * *" for the reduction of SO_2 emissions.

SELECTION OF FORMAT FOR THE STANDARDS

A number of different formats could be selected to limit NO_x emissions from stationary gas turbines. Mass standards limiting emissions in terms of power output (i.e., mass of emissions per unit of power output) or concentration standards limiting the concentration of emissions in the exhaust gases discharged into the atmosphere could be developed.

While mass standards may appear more meaningful in the sense that they relate directly to the quantity of emissions discharged into the atmosphere, enforcement of mass standards is more costly and the results more subject to error than enforcement of concentration standards.

Concentration standards, however, must be written to insure that the standards are not met merely by addition of dilution air. For combustion processes, this can be accomplished by correcting measured concentration to a reference concentration of O_2 (oxygen). The O_2 concentration in the exhaust gases is related to the excess (or dilution) air. Typical O_2 concentrations in gas turbine exhaust gases are about 15 percent. Thus, referencing standards to 15 percent oxygen effectively precludes circumvention by dilution. Consequently, concentration standards referenced to 15 percent oxygen were selected as the format for standards of performance for stationary gas turbines.

Selection of a concentration format, however, could penalize high efficiency gas turbines. Higher efficiencies are normally achieved by increasing combustor operating pressures and temperatures and NO_x formation generally increases exponentially with increased pressure and temperature. High efficiency turbines, therefore, generally discharge gases with higher NO_x concentrations than low efficiency turbines. A concentration standard based on low efficiency turbines could restrict the use of some high efficiency turbines. Conversely, a concentration standard based on high efficiency turbines could allow such high NO_x concentrations that low efficiency turbines would require no controls. Consequently, having selected a concentration format for standards of performance, an efficiency adjustment factor needed to be selected to permit higher NO_x emissions from high efficiency gas turbines.

NO_x emissions tend to increase exponentially with increased efficiency. It is not reasonable from an emission control viewpoint, however, to select an exponential efficiency adjustment factor. Such an adjustment would at some point allow very large increases in emissions for very small increases in effi-

ciency. The objective of an efficiency adjustment factor should be to give an emission credit for the lower fuel consumption of high efficiency gas turbines. Since the relative fuel consumption of gas turbines varies linearly with efficiency, a linear efficiency adjustment factor is selected to permit increased NO_x emissions from high efficiency gas turbines. A linear efficiency adjustment factor also effectively limits NO_x emissions to a constant mass emission rate per unit of power output.

The efficiency adjustment factor must be referenced to a baseline efficiency. Since most existing simple cycle gas turbines fall in the range of 20 to 30 percent efficiency, 25 percent was selected as the baseline efficiency. The efficiency of stationary gas turbines is usually expressed in terms of heat rate which is the ratio of heat input, based on lower heating value (LHV) of the fuel, to the mechanical power output. The heat rate of a gas turbine operating at 25 percent efficiency is 14.4 kilojoules per watt·hr (10,180 Btu per hp·hr). Thus, the linear adjustment factor as presented in the regulation was selected to permit increased NO_x emissions from high efficiency stationary gas turbines.

The intent of the efficiency adjustment factor is to permit a linear increase in NO_x emissions with increased efficiencies above 25 percent. Consequently, the adjustment factor would not be used to adjust the emission limit downward for gas turbines with efficiencies of less than 25 percent.

The rationale for selection of the format for SO_2 emissions is much the same as that discussed above for NO_x emissions. Thus, to be consistent with the format selected for standards limiting NO_x emissions, a concentration standard is chosen as the format for the SO_2 standard. An emission limit in terms of percent fuel sulfur content has also been included in the SO_2 standard to give the owner or operator the flexibility of either measuring the SO_2 concentration of the exhaust gas or analyzing the fuel being fired in the turbine. Either format for the SO_2 standard can be used since nearly all of the sulfur in the fuel is converted to SO_2.

The efficiency factor associated with the NO_x emission limit would not apply to the SO_2 emission limit, however, because SO_2 emissions do not vary with turbine efficiency.

SELECTION OF THE EMISSION LIMITS

The available data on emission from stationary gas turbines using wet controls come primarily from simple cycle gas turbine and combustor rig tests. No reliable data was available concerning NO_x emissions from regenerative cycle gas turbines using wet controls, although some dry control data was obtained. Careful consideration, therefore, was given to the question of whether regenerative cycle gas turbines could be controlled to the same emission levels as simple cycle gas turbines.

There is general agreement that wet controls will give essentially the same percentage reduction in NO_x emissions from regenerative cycle gas turbines as from simple cycle gas turbines. Thus, the question becomes whether uncontrolled NO_x emissions from regenerative cycle gas turbines are higher than those from simple cycle gas turbines. On first comparison, No_x emissions from regenerative cycle gas turbines appear higher than those from simple cycle gas turbines. Regenerative cycle gas turbines, however, frequently operate at higher thermal efficiencies than simple cycle gas turbines, and when NO_x emissions are plotted against gas turbine thermal efficiency, emissions from regenerative and simple cycle gas turbines do not appear significantly different. As a result, the application of wet controls to either regenerative or simple cycle gas turbines of comparable thermal efficiencies should reduce NO_x emissions to essentially the same level. Consequently, regenerative cycle gas turbines would be subject to the same emission limit as simple cycle gas turbines.

The data also indicate that gas turbines firing gaseous fuels typically have slightly lower controlled NO_x emission levels than gas turbines firing distillate fuels. Again, considering only the data representing major NO_x control efforts. controlled emissions from gas turbines firing gaseous fuels range from about 15 to 50 ppmv, while controlled emissions from gas turbines firing distillate fuels range from about 25 to 60 ppmv. This slight difference in controlled emission levels does not warrant the selection of a separate emission limit for each type of fuel. Only one emission limit, therefore, was selected which applies to gas turbines burning all types of fuel.

Based on this emission data and allowing for some uncertainty in the limited data base, 75 ppmv NO_x corrected to 15 percent oxygen was selected as the numerical emission limit for stationary gas turbines.

The gaseous and premium distillate fuels which have traditionally been burned in stationary gas turbines contain little or no "fuel-bound" or "organic" nitrogen. However, heavy residual fuel oils and crude oils can contain high levels of fuel-bound nitrogen. Total NO_x emissions from any combustion source, including stationary gas turbines, are a function of both thermal NO_x and organic NO_x formation. Thermal NO_x is formed in a well defined high temperature reaction between nitrogen and oxygen from the combustion air. Organic NO_x, however, is formed by the combination of fuel-bound nitrogen with oxygen during combustion. The reaction mechanism is not fully understood. Wet controls are effective for reducing thermal NO_x, but are not effective for reducing organic NO_x.

Three alternatives were considered to address the fuel-bound nitrogen contribution to total NO_x emissions from stationary gas turbines. The first alternative would have exempted heavy or residual fuel oils from standards of performance. This approach would have allowed gas turbines firing heavy residual fuel oils to operate with no emission controls. In addition to the difficulties of distinguishing between premium and residual fuel oils in the standards, this approach would have encouraged owners or operators to burn heavy or residual fuel oils as a means of evading standards of performance.

The second alternative would have been to base standards of performance on the firing of low nitrogen fuels. This approach would have required emission controls on all new, modified, and reconstructed stationary gas turbines, but would have effectively precluded the firing of fuels other than those premium gaseous and distillate fuels which turbines are now using. Firing of heavy or residual fuel oils would have required major breakthroughs in controlling organic NO_x formation, or additional refining of these fuels to reduce their nitrogen content (as well as their sulfur content) to a level equivalent to that of premium distillate fuels.

The third alternative would include an adjustment to the NO_x emission limit as a function of the fuel-bound nitrogen level in the fuel fired. This approach would require NO_x controls on all new stationary gas turbines, but would not restrict new, modified or reconstructed gas turbines to firing premium gaseous and distillate fuels. Thus, stationary gas turbines would not be penalized for firing heavy fuel oils, nor would there be any added impetus toward the firing of heavy or residual fuel oils in order to evade standards of performance.

As discussed earlier, low sulfur fuels, such as premium distillate fuel oils or natural gas are now being fired by nearly all stationary gas turbines. These premium fuels are being fired primarily because the increased maintenance costs associated with firing heavy fuel oils are greater than the savings that would be realized by buying these less expensive heavy or residual fuel oils. Over the next five to ten years, however, as oil prices continue to escalate, the price differential between premium distillate fuel oils and heavy fuel oils will probably increase and economic incentive to fire the premium fuel oils will probably become marginal. It is also possible that there could be limited supplies of premium distillate fuel oils over the next five to ten years due to declining production of oil and natural gas in the United States, increased demands for these premium fuels by users other than gas turbines which cannot utilize heavy or residual fuel oils, and the uncertainty of additional crude oil supplies in the world energy markets. In fact, in anticipation of the possibility of limited supplies of premium distillate fuel oils, approximately 50 percent of the new gas turbines on order are being designed to allow the owner or operator the flexibility of firing either premium distillate fuel oils, or residual or heavy fuel oils. Consequently, in order to provide gas turbine owners and operators the flexibility to fire either premium or heavy and residual fuels, but to ensure that standards

of performance add no impetus toward the firing of heavy fuel oils as a means of evading standards, alternative three is selected for standards of performance limiting NO_x emissions from stationary gas turbines.

An allowance in the NO_x emission limit dependent on fuel-bound nitrogen level with no upper limit on emissions, however, could permit extremely high NO_x emissions when fuels with very high nitrogen contents are fired. Thus, it is essential that restraints be placed on such an emission allowance. Therefore, a fuel-bound nitrogen allowance was developed that allows approximately 50 percent availability of the heavy fuel oils. This corresponds to a fuel-bound nitrogen content of 0.25 percent. Firing a fuel with 0.25 percent nitrogen content increases controlled NO_x emissions by about 50 ppm.

The effect of ambient atmospheric conditions on NO_x emissions from stationary gas turbines is substantial. Large changes in relative humidity, for example, can cause NO_x emissions to vary by a factor of 2 or more. In order to insure that standards of performance are enforced uniformly, therefore, the effect of ambient atmospheric conditions was derived by extracting the common elements from several ambient condition corrrection factors proposed by gas turbine manufacturers. This correction factor, therefore, represents the general effect of ambient atmospheric conditions on NO_x emissions. Consequently, the ambient condition correction factor, as presented in the regulation, or an alternative correction factor as discussed below, will be used to adjust measured NO_x emissions during any performance test to determine compliance with the numerical emission limit.

As an alternative, gas turbine manufacturers, owners, or operators may elect to develop custom ambient condition correction factors for adjusting measured NO_x emissions from particular gas turbine models to ISO standard ambient conditions of pressure (101.3 kilopascals), humidity (60 percent relative humidity), and temperature (288 degrees Kelvin). Some gas turbine manufacturers have proposed ambient condition correction factors which include variables such as fuel-to-air ratios and combustor temperatures. These variables are difficult to measure and are operating parameters which may vary widely due to factors other than ambient conditions. For this reason, any custom ambient condition correction factor must be developed in terms of the following variables only: combustor inlet pressure, ambient air pressure, ambient air humidity, and ambient air temperature. All ambient condition correction factors must be substantiated with data and then approved for use by EPA before they can be used in determining compliance with the NO_x emission limit. Ambient condition correction factors will be applied to all performance tests, not only those in which the use of such factors would reduce measured emission levels.

Some delay is required before the NO_x standard of performance can be applied to small stationary gas turbines. A delay is necessary to provide time for manufacturers to incorporate NO_x controls on their small production stationary gas turbine models. It is estimated that about three years delay in the effective date of the standard for small stationary gas turbines would be required to allow manufacturers time to incorporate and test wet controls on these gas turbines. Some manufacturers have expressed optimism at being able to meet the NO_x standards using dry controls if given about five years delay. Since small gas turbines represent only about 10 to 15 percent of the total NO_x emissions from stationary gas turbines, the difference in environmental impact of a three-year versus five-year delay would be small. Additionally, a three-year delay would essentially force these manufacturers to incorporate wet controls, whereas a five-year delay would provide the flexibility to use wet controls or to develop and use dry controls. Consequently, five years was selected as the delay period for implementation of the NO_x emission limit on small stationary gas turbines.

In selecting the size cutoff to differentiate between large and small stationary gas turbines, consideration was given to the purpose for the cutoff and the effect on competitive markets. The purpose of the cutoff is to differentiate between large gas turbines where wet controls have been commercially demonstrated and small gas turbines where wet controls although effective, have not been generally applied on a commercial basis. Consideration of the market data reveals that there are two major competitive markets for stationary gas turbines which can be generally described as small gas turbines and large gas turbines. The size range of 5000 to 10,000 horsepower essentially separates these two markets. All gas turbines above this range are manufactured by companies which have developed wet control systems for their stationary gas turbines. The size cutoff, therefore, between small and large gas turbines was selected as the upper end of this range. Thus, large stationary gas turbines are defined as those with heat input at peak load of greater than 107.2 gigajoules per hour (approximately 10,000 horsepower for a 25 percent efficient gas turbine).

The best system of emission reduction, considering costs, selected for SO_2 emissions was the firing of low sulfur fuel oils. To be consistent with the objective of the fuel-bound nitrogen allowance NO_x emission limit and allow for approximately 50 percent availability of the residual and heavy fuel oils, the SO_2 emission limit is selected as 150 ppm referenced to 15 percent O_2 which corresponds to a fuel sulfur content of 0.8 percent by weight.

The five-year delay of the NO_x emission limit applied to small gas turbines (less than 10,000) to provide manufacturers time to incorporate wet controls onto their turbines would not apply to the SO_2 emission limit since the control technique of burning low sulfur fuels is now available to all turbines.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such systems. State implementation plans (SIP's) approved or promulgated under Section 110 of the Act, on the other hand, must provide for the attainmnt and maintenance of National Ambient Air Quality Standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. For example, EPA's Interpretative Ruling (41 FR 55524, December 21, 1976) on the construction of a new or modified source in an area that exceeds a NAAQS requires, among other things, that the new source must meet an emission limitation which reflects the "lowest achievable emission rate" for such type of source. At a minimum, the lowest rate achieved in practice would have to be specified unless the applicant can demonstrate that it cannot achieve such a rate. In no event could the rate exceed any applicable standard of performance for new sources.

This stringent requirement reflects EPA's judgment that a new source should be allowed to emit pollutants into an area violating a NAAQS only if its contribution to the violation is reduced to the greatest degree possible. While the cost of achievement may be an important factor in selecting a standard of performance for new sources applicable to all areas of the country, the cost factor must be accorded far less weight in determining an appropriate emission limitation for a source locating in an area violating statutorily-mandated health and welfare standards. Thus, while there may be technology available for new sources which have been determined not to be appropriate for standards of performance because of the consideration given to costs, this technology would be considered for purposes of determining the "lowest achievable emission rate" for such type of sources. Consequently, standards of performance for new sources should not be viewed as the ultimate in achievable control and should not limit the imposition of a more stringent standard, where appropriate.

States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111, or those necessary to attain or maintain the NAAQS under Section 110. Thus, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

SELECTION OF MONITORING REQUIREMENTS

To provide a convenient means for enforcement personnel to insure that an

emission control system installed to comply with standards of performance is properly operated and maintained, monitoring requirements are generally included in standards of performance. For stationary gas turbines, the most straightforward means of insuring proper operation and maintenance is to monitor emissions released to the atmosphere.

EPA has establishing NO_x monitoring performance specifications in Appendix B of 40 CFR Part 60 for large industrial sources with well developed velocity and temperature profiles. Stationary gas turbines, however, do not have well developed velocity and temperature profiles in all cases. Gas stratification of the turbine exhaust, for example, makes the location of the sample point critical. Also, since some gas turbines are started remotely from a central location, special systems and data reporting procedures would be necessary to start and maintain continuous monitors.

Currently there are no NO_x continuous monitors operating on gas turbines, and resolution of these sampling problems and development of performance specifications for continuous monitoring systems would entail a major development program. For these reasons, continuous monitoring of NO_x emission from gas turbines would not be required by the proposed standards.

An effective means of ensuring operation of the water injection system used to control NO_x emissions from gas turbines is to monitor the water-to-fuel ratio being fed to the turbine. Both water and fuel monitors are readily available and are demonstrated technology for use on gas turbines. Consequently, to ensure operation of water injection systems, the proposed standards for stationary gas turbines would require continuous monitoring of the water-to-fuel ratio where water injection is employed to comply with NO_x standard.

Also, an effective means of ensuring the firing of fuels with the proper nitrogen content to control NO_x emissions caused by fuel bound nitrogen is to monitor the nitrogen content of the fuel being fired. Consequently, any owner or operator that uses the fuel-bound nitrogen allowance to comply with NO_x emission limit will be required by the standard to monitor the nitrogen content of the fuel.

The continuous monitoring of SO_2 emissions would not be required by the proposed standards for the same reasons continuous monitoring of NO_x emissions would not be required. A means of ensuring the firing of low sulfur fuels to control SO_2 emissions, however, is to monitor the sulfur content of the fuel being burned. This is already a common practice among gas turbine users. Consequently, to ensure the use of low sulfur fuels by stationary gas turbines to comply with the SO_2 emission limit, the standard would require monitoring the sulfur content of the fuel.

SELECTION OF PERFORMANCE TEST METHODS

Reference Method 20, "Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions from Stationary Gas Turbines," was selected as the performance test method to determine compliance with the standards of performance limiting NO_x emissions for stationary gas turbines. This test method is based on the EPA gas turbine field tests and on background data for continuous monitoring system specifications (FEDERAL REGISTER, October 6, 1975). Reference Method 20 includes (1) measurement system design criteria, (2) measurement system performance specifications and performance test procedures, and (3) procedures for emission sampling. The performance specifications include the span drift, zero drift, linearity check, response time of the system, and interference checks. This method allows a choice of instruments and will provide reliable data if the performance specifications are met.

Both the Society of Automotive Engineers (SAE) and Mobile Source test methods are acceptable alternative methods, if the selected instrument models are capable of meeting the performance specifications of Reference Method 20.

NO_x emission measured by Reference Method 20 will be affected by ambient atmospheric conditions. Consequently, measured NO_x emissions would be adjusted during any performance test by the ambient condition correction factor discussed earlier, or by custom correction factors approved for use by the Administrator.

In order to apply the fuel-bound nitrogen allowance included as part of the NO_x emission limit, the nitrogen content of the fuel must be determined. The analytical methods and procedures employed to determine the nitrogen content of the fuel would be approved by the Administrator and would be accurate to within plus or minus five percent.

In lieu of determining the SO_2 concentration of the exhaust gas from a gas turbine by using Method 20, compliance with the standard may be demonstrated by determining the sulfur content of the fuels being used by the gas turbine. Sulful content of the fuel will be determined using ASTM D2880–71 for liquid fuels and ASTM D1072–70 for gaseous fuels.

MISCELLANEOUS

As prescribed by Section 111 of the Act, this proposal of standards has been preceded by the Administrator's determination that emissions from stationary gas turbines contribute to air pollution which causes or contributes to the endangerment of public health or welfare, and by his publication of this determination in this issue of the FEDERAL REGISTER. In accordance with Section 117 of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulations, including the designation of stationary gas turbines as a significant contributor to air pollution which causes or contributes to the endangerment of public health or welfare, economic and technological issues, and on the proposed test methods.

Comments are also specifically invited no the severity of the economic impact of the proposed standards on stationary gas turbines located offshore, since a number of interested parties have expressed objection to not exempting the offshore turbine from compliance with the standard. Any comments submitted to the Administrator on this issue, however, should contain specific information and data pertinent to an evaluation of the magnitude of this impact and its severity.

Economic impact analysis: The criteria for an action to be considered major, thereby requiring development of an Economic Impact Analysis (EIA) are: (1) an increase in the fifth-year annualized costs of 100 million dollars, (2) a major product price increase of 5 percent, or (3) an increase in national energy consumption of 25,000 barrels of fuel oil per day. The impacts resulting from the proposed standards would not exceed these criteria, except possibly for those stationary gas turbines sold for offshore oil and gas drilling platforms, where the proposed standards could increase the price of a gas turbine by about 7 percent. Most gas turbines used in the application, however, are likely to have a heat input at peak capacity of less than 107.2 gigajoules per hour (about 10,000 horsepower). Consequently, they would be considered small gas turbines and would be exempt from the standards for five years following proposal of the standards. In any event, however, stationary gas turbines sold for offshore applications constitute such a small percentage (estimated at less than 3 percent) of the overall market for stationary gas turbines that they are not considered a major product within the meaning of the 5 percent major product price increase criteria for an action to be considered major, thereby requiring preparation of an EIA. The Environmental Protection Agency has determined, therefore, that his proposed action does not constitute a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: September 21, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. By adding subpart GG as follows:

Subpart GG—Standards of Performance for Stationary Gas Turbines

Sec.

AUTHORITY: Sections 111 and 301(a) of the Clean Air Act, as amended, [42 U.S.C. 1857c–7, 1857g(a)], and additional authority as noted below.

Subpart GG—Standards of Performance for Stationary Gas Turbines

§ 60.330 Applicability and designation of affected facility.

The provisions of this subpart are applicable to the following affected facilities: all stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour, based on the lower heating value of the fuel fired.

§ 60.331 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Stationary gas turbine" means any simple cycle gas turbine, regenerative cycle gas turbine or any gas turbine portion of a combined cycle steam/electric generating system, that is not self-propelled. It may, however, be mounted on a vehicle for portability.

(b) "Simple cycle gas turbine" means any stationary gas turbine which does not recover heat from the gas turbine exhaust gases to preheat the inlet combustion air to the gas turbine, or which does not recover heat from the gas turbine exhaust gases to heat water or generate steam.

(c) "Regenerative cycle gas turbine" mean any stationary gas turbine which recovers heat from the gas turbine exhaust gases to preheat the inlent combustion air to the gas turbine.

(d) "Combined cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gases to heat water or generate steam.

(e) "Emergency gas turbine" means any stationary gas turbine which operates as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation.

(f) "Ice fog" means an atmospheric suspension of highly reflective ice crystals.

(g) "ISO standard day conditions" means 288 degrees Kelvin, 60 percent relative humidity and 101.3 kilopascals pressure.

(h) "Efficiency" means the gas turbine manufacturer's rated heat rate at peak load in terms of heat input per unit of power output based on the lower heating value of the fuel.

(i) "Peak load" means 100 percent of the manufacturer's design capacity of the gas turbine.

(j) "Base load" means the load level at which a gas turbine is normally operated.

(k) "Fire-fighting turbine" means any stationary gas turbine that is used primarily to pump water for extinguishing fires.

§ 60.332 Standard for nitrogen oxides.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere, except as provided in paragraphs (b), (c), and (d) of this section.

(1) From any gas turbine with a heat rate at peak load of more than or equal to 14.4 kilojoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

$$STD = 0.0075 + F$$

where:
STD = allowable NO_x emissions (percent by volume at 15 percent oxygen and on a dry basis).
F = NO_x emission allowance for fuel-bound nitrogen as defined in part (3) of this paragraph.

(2) From any gas turbine with a heat rate at peak load of less than or equal to 14.4 kilojoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

$$STD = 0.0075\left(\frac{14.4}{Y}\right) + F$$

where:
STD = allowable NO_x emissions (percent by volume at 15 percent oxygen and on a dry basis).
Y = manufacturer's rated heat rate at peak load (kilojoules per watt hour).
F = NO_x emission allowance for fuel-bound nitrogen as defined in part (3) of this paragraph.

(3) F shall be defined according to the nitrogen content of the fuel as follows:

Fuel-bound nitrogen (percent by weight)	F *(NO_x percent by volume)*
$N \leq 0.015$	0
$0.015 < N \leq 0.1$	$0.04(N)$
$0.1 < N \leq 0.25$	$0.004 + 0.0067(N - 0.1)$
$N > 0.25$	0.005

where:
N = the nitrogen content of the fuel (percent by weight).

(b) Stationary gas turbines with a heat input at peak load of 107.2 gigajoules per hour (100 million Btu/hour) or less, based on the lower heating value of the fuel fired, are exempt from paragraph (a) of this section for a period not to exceed five years from (date of proposal).

(c) Stationary gas turbines using water or steam injection for control of NO_x emissions are exempt from paragraph (a) when ice fog is deemed a traffic hazard by the owner or operator of the gas turbine.

(d) Emergency standby gas turbines, military gas turbines for use in other than a garrison facility, and fire-fighting gas turbines are exempt from paragraph (a) of this section.

§ 60.333 Standard for sulfur dioxide.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any stationary gas turbine any gases which contain sulfur dioxide in excess of 0.015 percent by volume at 15 percent oxygen and on a dry basis.

(b) The sulfur content of the fuel fired by the gas turbine may be used to determine compliance with paragraph (a) of this section. Under such circumstances, on and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall burn in any stationary gas turbine any fuel which contains sulfur in excess of 0.8 percent by weight.

§ 60.334 Monitoring of operations.

(a) The owner or operator of any stationary gas turbine subject to the provisions of this subpart and using water injection to control NO_x emissions shall install and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water to fuel being fired in the turbine. This system shall be accurate to within ±5.0 percent and shall be approved by the Administrator.

(b) The owner or operator of any stationary gas turbine subject to the provisions of this subpart shall record daily the sulfur content, nitrogen content, and lower heating value of the fuel being fired in the gas turbine.

(c) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as follows:

(1) Nitrogen oxides. Any one-hour period during which the average water-to-fuel ratio, as measured by the continuous monitoring system, falls below the water-to-fuel ratio determined to demonstrate compliance with § 60.332 by the performance test required in § 60.8. Each report shall include the average water-to-fuel ratio, average fuel consumption, ambient conditions and nitrogen content of the fuel during the period of excess emissions, and the graphs or figures developed under § 60.335(a).

(2) Sulfur dioxide. Any daily period during which the sulfur content of the fuel being fired in the gas turbine exceeds 0.8 percent.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9)).

§ 60.335 Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.332 as follows:

(1) Reference Method 20 for the concentration of nitrogen oxides and oxygen.

(i) The nitrogen oxides emission level measured by Reference Method 20 shall be adjusted to ISO standard day conditions by the following ambient condition correction factor:

$$NO_x = (NO_{x_{obs}})\left(\frac{P_{ref}}{P_{obs}}\right)^{0.5} e^{19(H_{obs}-0.00633)}$$

where:
NO_x = emissions of NO_x at 15 percent oxygen and ISO standard ambient conditions.
$NO_{x_{obs}}$ = measured NO_x emissions at 15 percent oxygen, ppmv.
P_{ref} = reference combustor inlet absolute pressure at 101.3 kilopascals ambient pressure.
P_{obs} = measured combustor inlet absolute pressure at test ambient pressure.
H_{obs} = specific humidity of ambient air at test.
e = transcendental constant (2.718).

The adjusted NO_x emission level shall be used to determine compliance with § 60.332.

(ii) Manufacturers, owners or operators may develop custom ambient condition correction factors in terms of combustor inlet pressure, ambient air pressure, ambient air humidity and ambient air temperature to adjust the nitrogen oxides emission level measured by the performance test as provided for in § 60.8 to ISO standard day conditions. These ambient condition correction factors shall be substantiated with data and must be approved for use by the Administrator before they can be used to determine compliance with paragraph (a) of this subpart. Notices of approval of custom ambient condition correction factors will be published in the FEDERAL REGISTER.

(iii) The water-to-fuel ratio necessary to comply with § 60.332 will be determined during the initial performance test by measuring NO_x emissions using Reference Method 20 and the water-to-fuel ratio necessary to comply with § 60.332 at 30, 50, 75, and 100 percent of peak load.

(2) ASTM D-2382 for the lower heating value of liquid fuels and ASTM D-1826 for the lower heating value of gaseous fuels. These methods shall also be used to comply with § 60.334(b).

(3) The analytical methods and procedures employed to determine the nitrogen content of the fuel being fired shall be approved by the Administrator and shall be accurate to within plus or minus five percent.

(b) The method for determining compliance with § 60.333, except as provided in § 60.8(b), shall be as follows:

(1) Reference Method 20 for the concentration of sulfur dioxide and oxygen.

(2) ASTM D2880–71 for the sulfur content of liquid fuels and ASTM D1072–70 for the sulfur content of gaseous fuels. These methods shall also be used to comply with § 60.334(b).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c–9).)

APPENDIX A—REFERENCE METHODS

2. Part 60 is amended by adding Reference Method 20 to Appendix A as follows:

* * * * *

METHOD 20—DETERMINATION OF NITROGEN OXIDES, SULFUR DIOXIDE, AND OXYGEN EMISSIONS FROM STATIONARY GAS TURBINES

1. *Principle and Applicability.*

1.1 Principle. A gas sample is continuously extracted from the exhaust stream of a stationary gas turbine; a portion of the sample stream is conveyed to instrumental analyzers for determination of nitrogen oxides (NO_x) and oxygen (O_2) content. During each NO_x and O_2 determination, a separate measurement of sulfur dioxide (SO_2) emissions is made, using Method 6, or its equivalent. The O_2 determination is used to adjust the NO_x and SO_2 to a reference condition.

1.2 Applicability. This method is applicable for the determination of nitrogen oxide, sulfur dioxide, and oxygen emissions from stationary gas turbines. For the NO_x and O_2 determinations, this method includes: (1) Measurement system design criteria, (2) analyzer performance specifications and performance test procedures; and (3) procedures for emission testing.

2. *Apparatus and Reagents*

2.1 Measurement System. The equipment required to extract, transport, and analyze the gas sample constitutes the "measurement system." A schematic of the measurement system is shown in Figure 20–1. (Measurement system performance specifications are described in detail in Section 3.) The essential components of the measurement system are described below.

2.1.1 Probe. Stainless steel type 316 or equivalent, to transport gas from stack.

2.1.2 Particulate Filter. A filter is used to remove particulates ahead of the calibration valve assembly. In most cases, either in-stack or out-stack filter location is acceptable; however, out-stack filtration is required when the sample gas temperature is above 500°C (930°F). The filtration temperature shall be at least 120°C (250°F) to prevent moisture condensation. Glass fiber filters, of the type specified in EPA Method 5, or equivalent, are recommended.

2.1.3 Calibration Valve Assembly. A three-way valve assembly is used to direct the zero and span calibration gases to the analyzers. This assembly shall be located directly behind the probe and filter and shall be capable of blocking the sample gas flow and introducing the span and zero gases when the system is in the calibration mode.

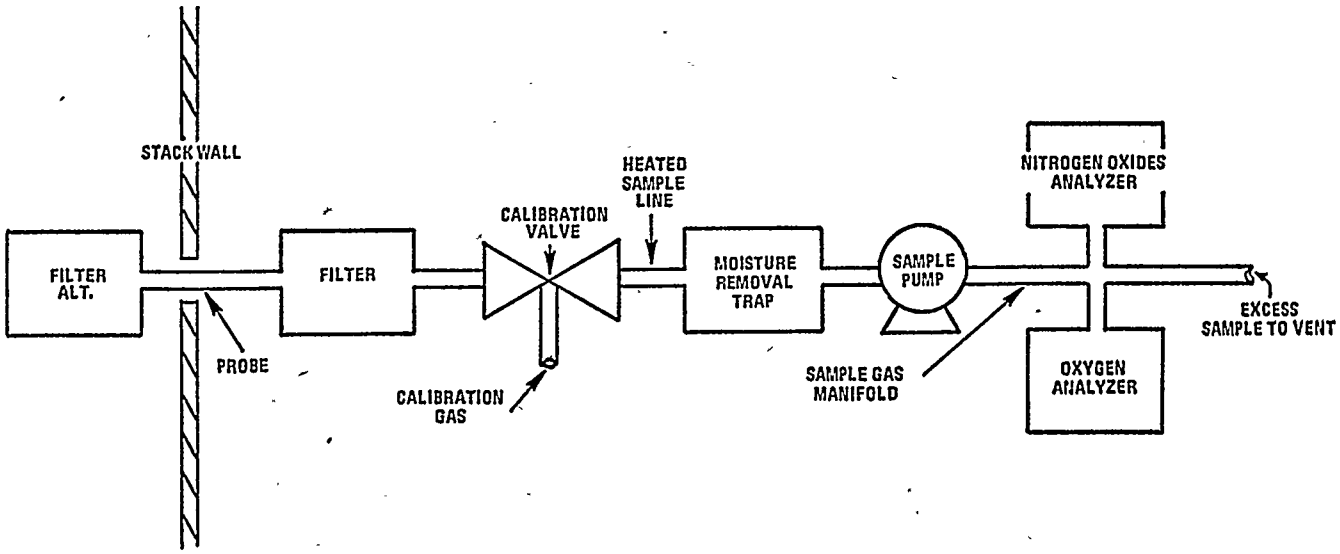

Figure 20.1 Measurement system design for stationary gas turbine tests.

2.1.4 Calibration Gases. Calibration gases are used to perform zero, span and calibration checks of the analyzers during each test run. The concentrations and specifications of these gases are described in detail in Sections 2.2 and 6.2.

2.1.5 Heated Sample Line. A FEP fluorocarbon or stainless steel (type 316 or equivalent) sample line is used to transport the gases to the sample conditioner and analyzers. The sample gas shall be maintained at least 5°C (10°F) above the stack gas dew point to prevent moisture condensation.

2.1.6 Moisture Trap. A moisture trap, designed to reduce the dew point of the sample gas to 3°C (37°F) or less, is used. For instruments not affected by water vapor, this device is not required; however, the moisture content shall be determined using methods subject to the approval of the Administrator and the NO_x and O_2 concentrations shall be corrected to a dry gas basis.

2.1.7 Pump. A nonreactive leak-free sample pump is used to pull the sample gas through the system at a flow rate sufficient to minimize transport delay. The pump shall be made from or coated with nonreactive material (FEP fluorocarbon or type 316 stainless steel).

2.1.8 Sample Gas Manifold. A sample gas manifold is recommended for diverting portions of the sample gas stream to the analyzers. The manifold may be constructed of glass, FEP fluorocarbon, or stainless steel (type 316 or equivalent). Instead of using the manifold, separate sample lines may be connected to each analyzer.

2.1.9 Oxygen Analyzer. An oxygen analyzer is used to determine the oxygen concentration (percent O_2) of the sample gas stream.

2.1.10 Nitrogen Oxides Analyzer. A NO_x analyzer is used to determine the ppm concentration of nitrogen oxides in the sample gas stream.

2.1.11 Sulfur Dioxide Analysis. Method 6 apparatus, or equivalent, is required for sulfur dioxide determination.

2.2 Calibration Gas Specifications.

2.2.1 Zero Gas. Prepurified nitrogen is used.

2.2.2 Nitrogen Oxide Calibration Gases. Mixtures of known concentrations of NO in

nitrogen are required. Nominal NO concentrations of 25, 50, and 90 percent of the instrument full scale range are needed. The 90 percent gas mixture is used to set and chack the instrument span and is referred to as span gas. The 25 and 50 percent gas mixtures shall be used to validate the analyzer calibration, prior to each test.

2.2.3 Oxygen Calibration Gases. Ambient air at 20.9 percent oxygen shall be used as the span gas (high range concentration gas). A midscale calibration gas (approximately 13 percent O_2 in nitrogen) shall be used to validate the analyzer calibration prior to each test.

2.2.4 Concentration Validation. Within one month prior test use, calbration gases shall be analyzed, by the appropriate test method specified in Section 6.2, to determine their true concentration levels. Gas concentrations that are traceable to the National Bureau of Standards and which can be demonstrated to be stable are exempted from the analysis requirements.

3. *Measurement System Performance Specifications and Performance Test Procedures.*

3.1 Analyzer. "Span" is defined as the concentration range (specified by manufacturer) over which an analyzer will give valid readings. The spans for the analyzers used in this method shall be as follows:

3.1.1 Oxygen Analyzer: 0 to 25% O_2.

3.1.2 NO_x Analyzer: 0 to 120 ppm.

3.2 Analyzer Interferences and Interference Response. The "interference response" of an analyzer is defined as the output response to a component in the sample gas stream, other than the gas component being analyzed; the analyzers used in this method shall not have a total interference response of more than ±2 percent of span.

Particulate matter and water vapor are the primary interfering species for most instrumental analyzers, but these may be removed physically by using filters and condensers. Other possible specific interferents found in turbine exhaust streams include carbon monoxide, carbon dioxide, nitrogen oxides, sulfur dioxide and hydrocarbons. Each analyzing instrument may respond to one or more of these interferents in ways that alter the desired measurement.

The interference response of an analyzer is determined by measuring the total analyzer response to the gaseous components (or mixtures) listed in Table 20.1; these gases may either be introduced into the analyzer separately, or as a single gas mixture. The total interference output response of the analyzer to these components, if any, shall be determined (in concentration units). The values obtained in an interference response test shall be recorded on a form similar to Figure 20.2.

TABLE 20.1 INTERFERENCE TEST GAS CONCENTRATIONS

CO	500 ppm
SO_2	200 ppm
NO/NO_2	200 ppm
CO_2	10%
O_2	20.9% (Air)

FIGURE 20.2 INTERFERENCE RESPONSE

Date of Test: _____

Analyzer Type: _____ S/N _____

Test Gas Type	Conc.	Analyzer Output Response	% of Span

$$\% \text{ of Span} = \frac{\text{Analyzer Output Response}}{\text{Instrument Span}} \times 100$$

If the sum of the interference responses of the test gases is greater than 2 percent of the instrument span, the analyzer shall not be used in the measurement system of this method.

An interference response test of each analyzer shall be conducted prior to its initial use in the field. Thereafter, if changes are made in the instrumentation which could alter the interference response, e.g., changes in the type of gas detector, the instruments shall be retested.

In lieu of conducting the interference response test, instrument vendor data, which demonstrate that for the test gases of Table 20.1 the interference performance specification is not exceeded, are acceptable. If these data are not available, the tests shall be made.

3.3 Analyzer Response Time. When a change in pollutant concentration occurs at the inlet of the measurement system (i.e., at probe), the change is not immediately registered by the analyzer; "response time" is defined as the amount of time that it takes for the analyzer to register a concentration value within 5 percent of the new inlet concentration. The maximum response time for the analyzers used in this method is three minutes.

To determine response time, first introduce zero gas into the system until all readings are stable; then, introduce span gas into the system. The amount of time that it takes for the analyzer to register 95 percent of the final span gas concentration is the upscale response time. Next, reintroduce zero gas into the system; the length of time that it takes for the analyzer output to come within 5 percent of the final reading is the downscale response time. The upscale and downscale response times shall each be measured three times. The readings shall be averaged, and the average upscale or downscale response time, whichever is greater, shall be reported as the "response time" for the analyzer. Response time data are recorded on a form similar to Figure 20.3. A response time test shall be conducted prior to the initial field use of the measurement system, and shall be repeated if changes are made in the measurement system.

3.4 Zero Drift. "Zero drift" is the change in analyzer output during a turbine performance test, when the input to the measurement system is a pure grade of nitrogen (zero gas). The maximum allowable zero drift for the analyzers used in this method is ±2 percent of the specified instrument span. The zero drift calculation is made for each gas for each turbine test run; this is done by taking the difference of the zero gas concentration values measured at the start and finish of the test (see Section 6.1). The zero drift is recorded as a percentage of the instrument span) on a form similar to Figure 20.4.

3.5 Span Drift. "Span drift" is the change in the analyzer output during a turbine performance test, when the input to the measurement system is span gas. The maximum allowable span drift for the analyzers used in this method is ±2 percent of the specified instrument span. The span drift calculation is to be made for each gas for each turbine test run; this is done by taking the difference between the span gas concentration values measured at the beginning and end of the test. Span drift is recorded (as a percentage of instrument span) on a form similar to Figure 20.4. Span drift must be corrected for any zero drift that occurred during the test period (see Figure 20.4).

4. *Procedure for Field Sampling.*

4.1 Selection of a Sampling Site and the Minimum Number of Traverse Points.

RESPONSE TIME

Date of Test_____

Analyzer Type_____ S/N_____

Span Gas Concentration_____ ppm

Analyzer Span Setting_____ppm

Upscale
1_____seconds
2_____seconds
3_____seconds

Average upscale response _____seconds

Downscale
1_____seconds
2_____seconds
3_____seconds

Average downscale response_____seconds

System response time = slower average time = _____seconds.

Figure 20.3

TURBINE SAMPLING SYSTEM

Zero and Span Drift Data

Turbine Type _____ S/N_____

Date:_____

Test No.:_____

Analyzer: Type_____ S/N_____

	Initial Calibration ppm or %	Final Calibration ppm or %	Difference Initial-Final ppm or %	% of Span
Zero Gas				
High Calibration Gas (Span Gas)			*	

$$\% \text{ of Span} = \frac{\text{Absolute Value of Difference}}{\text{Instrument Span}} \times 100$$

*Corrected for zero drift, i.e., if zero drift over test period is +2 ppm then 2 ppm shall be subtracted from the difference between the initial and final readings.

Figure 20.4

4.1.1 Select a sampling site as close as practical to the exhaust of the turbine. Turbine geometry, stack configuration, internal baffling, and point of introduction of dilution air will vary for different turbine designs. Thus, each of these factors must be given special consideration in order to obtain a representative sample. Whenever possible, the sampling site shall be located upstream of the point of introduction of dilution air into the duct. Sample ports may be located before or after the upturn elbow, in order to accommodate the configuration of the turning vanes and baffles and to permit a complete, unobstructed traverse of the stack. The sample ports shall not be located within 5 feet or 2 diameters (whichever is less) of the gas discharge to atmosphere. For supplementary-fired, combined-cycle plants, the sampling site shall be located between the gas turbine and the boiler.

4.1.2 The minimum diameter of the sample ports shall be 3-inch nominal pipe size (NPS).

4.1.3 The minimum number of points for the preliminary O_2 sampling (Section 8.3.2) shall be as follows: (1) eight, for stacks having cross-sectional areas less than 1.5 m^2 (16.1 ft^2); (2) one sample point for each 0.2 m^2 (2.2 ft^2) of area, for stacks of 1.5 m^2 to 10.0 m^2 (16.1–107.6 ft^2) in cross-sectional area; and (3) one sample point for each 0.4 m^2 (4.4 ft^2) of area, for stacks greater than 10.0 m^2 (107.6 ft^2) in cross-sectional area. Note that for circular ducts, the number of sample points must be a multiple of 4, and for rectangular ducts, the number of points must be one of those listed in Table 20.2; therefore, round off the number of points (upward), when appropriate.

TABLE 20.2.—*Cross-sectional layout for rectangular stacks*

No. of traverse points:	*Matrix layout*
9	3×3
12	4×3
16	4×4
20	5×4
25	5×5
30	6×5
36	6×6
42	7×6
49	7×7

4.2 Cross-sectional Layout and Location of Traverse Points. After the number of traverse points for the preliminary O_2 sampling has been determined, use Method 1 to locate the traverse points.

4.3 Measurement System Operation.

4.3.1 Preliminaries.

4.3.1.1 Prior to the turbine test, the measurement system shall have been demonstrated to have met the performance specifications for interference response and response time described in Sections 3.2 and 3.3.

4.3.1.2 Turn on the sample pump and instruments; allow the normal warmup time required for stable instrument operation.

4.3.1.3 After the instruments have stabilized, the measurement system shall be calibrated using the procedures detailed in Section 6.1. Transfer the zero and span gas calibration data from Figure 20.5 to a form similar to Figure 20.4.

4.3.1.4 At the beginning of each NO_x test run and, as applicable, during the run, record turbine data as indicated in Figure 20.6. Also, record the location and number of the traverse points on a diagram.

4.3.2 Preliminary Oxygen Sampling.

4.3.2.1 At the start of a 3-run sample sequence, position the probe at the first traverse point and begin sampling. The minimum sampling time at each point shall be 1 minute plus the average system response time. Determine the average steady-state concentration of O_2 at each point and record the data on Figure 20.7.

Figure 20.5

CALIBRATION DATA

Date_____

Analyzer Type_____ S/N_____

High Range Gas Conc._____ % Full Scale_____

Mid Range Gas Conc._____ % Full Scale_____

Low Range Gas Conc._____ % Full Scale_____

Zero Gas_____ % Full Scale_____

Figure 20.6

STATIONARY GAS TURBINE

TURBINE OPERATION RECORD

Test Operator_____ Date_____

Turbine ID: Type_____ S/N_____

Location: Plant_____ City_____

Ambient Temperature_____

Ambient Humidity_____

Test Time Start_____

Test Time Finish_____

Fuel Flow Rate_____ *

Water or Steam Flow Rate_____ *

Ambient Pressure_____

Ultimate Fuel Analysis: C_____ H_____ O_____ N_____ S_____ Ash_____ H_2O_____

Trace Metals_____ Na_____ Va_____ K_____ etc.**

Operating Load_____

*Describe measurement method, i.e., continuous flow meter, start finish volumes, etc.

**i.e., Additional elements added for smoke suppression.

FIGURE 20.7

Preliminary Oxygen Traverse

Location _____ Date _____

Plant _____

City, State _____

Turbine ID

Mfg. _____

Model, serial number _____

Sample Point	Oxygen Concentration

4.3.2.2 Select the eight sample points at which the lowest oxygen concentrations were obtained. These same points shall be used for all three runs which comprise the emission test. More points may be used, if desired.

4.3.3 Emission Sampling.

4.3.3.1 Position the probe at the first point determined in the preceding section and begin sampling. The minimum sampling time at each point shall be 3 minutes plus the average system response time. Determine the average steady-state concentration of O_2 and NO_x a each point and record the data on Figure 20.8.

4.3.2.2 After sampling the last point, conclude the test run by recording the final turbine operating parameters and by determining the zero and span drift, as described in Sections 3.4 and 3.5. If the zero and/or span drift exceed ±2.0 percent the run may be considered invalid, or may be accepted provided the calibration data which results in the highest corrected emission concentration is used.

4.3.2.3 If additional turbine runs are conducted within 4 hours of the previous run, an initial calibration of the measurement system is not required. If more than 4 hours have elapsed between runs, the pretest calibration shall be done.

4.4 An SO_2 determination shall be made (using Method 6, or equivalent) during the test. A minimum of six total points, selected from those required for the NO_x measurement, shall be sampled; two points shall be used for each sample run. The sample time at each point shall be at least 10 minuets. The oxygen readings taken during the NO_x test runs corresponding to the SO_2 traverse points (see Section 4.3.3.1) shall be averaged, and this average oxygen concentration shall be used to correct the integrated SO_2 concentration obtained by Method 6 to 15 percent O_2 (see Equation 20-1).

Figure 20.8
STATIONARY GAS TURBINE
GAS SAMPLE POINT RECORD

Turbine ID
Mfg._____
Model & S/N_____
Plant_____

Location
City_____
State_____

Test Operator Name_____
O_2 Instrument Type_____ S/N_____
NO_x Instrument Type_____ S/N_____

Ambient Temp._____
Ambient Press_____
Ambient Humidity_____
Date_____
Test Time Start_____
Test Time Finish_____

Sample Point	Time (Min)	O_2* (%)	NO_x* (ppm)
1	0		

*Average steady state value from recorder or instrument readout.

5. *Emission Calculations.*

5.1 Correction to 15 Percent Oxygen. Using Equation 20-1, calculate the NO_x and SO_2 concentrations (adjusted to 15 percent O_2). The correction to 15 percent oxygen is sensitive to the accuracy of the oxygen measurement. At the level of analyzer drift specified in the method (±2 percent of full scale), the change in the oxygen concentration correction can exceed 10 percent when the oxygen content of the exhaust is above 16 percent O_2. Therefore O_2 analyzer stability and careful calibration are necessary.

Actual pollutant concentration (NO_x or SO_2)

$$\times \frac{5.9\%}{20.9\% - O_2\%\ \text{actual}} =$$

Pollutant concentration adjusted to 15% O_2

where:

5.9% is 20.9%−15% (the defined concentration basis).

O_2 actual is the sample point oxygen concentration for NO_x calculation, and the average O_2 concentration for SO_2 calculation.

5.2 Calculate the average adjusted NO_x concentration by summing the point values and dividing by the number of sample points.

6. *Calibration.*

6.1 Measurement System. Prior to each turbine test, the measurement system shall be calibrated according to the procedures described below. The manufacturer's operation and calibration instructions are also to be followed as required for each specific analyzer.

6.1.1 Turn on all measurement system components and allow them to warm up until stable conditions are achieved. Next, introduce zero gas and each of the calibration gases described in Section 6.2, one at a

time, into the inlet of the probe. The responses of the analyzer to these gases shall be used to establish a calibration curve or to verify the manufacturers calibration curve. The data obtained in these procedures shall be recorded on a form similar to Figure 20.4. If, for the mid-scale gases, the accuracy of the manufacturer's calibration curve or the expected response curve cannot be shown to be ±2 percent of full scale (or better), the calibration shall be considered invalid and corrective measures on the instrument shall be taken. The calibration procedure shall be repeated, using only zero gas and span gas, at the conclusion of test; this allows calculation of zero and span drift (Sections 3.2 and 3.3).

6.2 Calibration Gas Mixtures.

6.2.1 Within one month prior to the turbine test, the NO_x calibration gas mixtures shall be analyzed, using the phenoldisulfonic acid procedure (Method 7) for nitrogen oxides. A minimum of three analyses shall be done, and the average concentration of each gas shall be reported as the true calibration gas value (see Figure 20.9). Alternate procedures may be employed, subject to the approval of the Administrator, to determine the calibration gas concentration.

Figure 20.9

ANALYSIS OF CALIBRATION GAS MIXTURES

CYLINDER GAS COMPOSITION Reference Method Used_____

Date_____

Low Range Calibration Gas Mixture

Sample 1_____ppm

Sample 2_____ppm

Sample 3_____ppm

Average_____ppm

Mid Range Calibration Gas Mixture

Sample 1_____ppm

Sample 2_____ppm

Sample 3_____ppm

Average_____ppm

High Range (span) Calibration Gas Mixture

Sample 1_____ppm

Sample 2_____ppm

Sample 3_____ppm

Average_____ppm

NOTE.—The NO_x calibration gas mixtures shall contain nitric oxide (NO) in nitrogen. Instruments which require conversion of one nitrogen oxide component to another for total NO_x measurement shall be checked to ensure that this conversion is complete and reproducible, as specified by the manufacturer.

6.2.2 Ambient air may be used as the oxygen span gas. The mid-scale calibration gas concentration shall be certified (by vendor) as being within ±2 percent of the indicated concentration.

[FR Doc.77-28721 Filed 9-30-77;8:45 am]

Federal Register

MONDAY, OCTOBER 3, 1977

PART IV

CONSUMER PRODUCT SAFETY COMMISSION

■

ARCHITECTURAL GLAZING MATERIALS

Proposed Safety Standard and Denial of Petitions

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1201]

ARCHITECTURAL GLAZING MATERIALS

Proposed Amendments to Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments to standard.

SUMMARY: In this document the Commission proposes amendments to the Safety Standard for Architectural Glazing Materials (16 CFR 1201) to clarify the definition of certain glazed panels in nonresidential buildings which are subject to the standard, and to modify the description of certain items of test apparatus and certain test procedures specified by the standard.

DATE: Comments concerning this proposal must be received by November 2, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Allen F. Brauninger, Attorney, Division of Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6629)

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1977 (42 FR 1427), the Consumer Product Safety Commission issued the Safety Standard for Architectural Glazing Materials (16 CFR 1201) with an effective date of July 6, 1977. This standard was issued under provisions of the Consumer Product Safety Act to reduce or eliminate risks of injuries associated with walking, running, or falling through or against glazing materials in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors.

The standard prescribes safety requirements for glazing materials manufactured on or after July 6, 1977, for use in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors. The standard also requires that the architectural products enumerated above which are manufactured on or after July 6, 1977, must be constructed or assembled using glazing materials that meet the requirements of the standard.

In the FEDERAL REGISTER of June 20, 1977 (42 FR 31164), the Commission amended the standard to exempt from its requirements any architectural product which would otherwise be subject to the standard if that product is manufactured between July 6, 1977, and July 5, 1978, using glazing materials manufactured before July 6, 1977, which are marke dor certified to comply with ANSI Standard Z97.1-1972 or -1975, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," published by American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

The Standard issued by the Commission is designed to reduce or eliminate unreasonable risks of injury associated with architectural glazing materials by ensuring that the glazing materials used in the products enumerated above either will not break when impacted with a certain energy, or will break so that they are less likely than other glazing materials to present the unreasonable risks of injury detailed above.

To determine the breakage characteristics of glazing materials used or intended for use in the products which are subject to the standard, an impact test is prescribed by the standard. The impact test consists of striking the glazing material to be tested with a punching bag filled with lead shot by dropping the bag from a height of 18 or 48 inches, depending on the architectural products in which the glazing material is used.

Additionally, the standard prescribes accelerated environmental durability tests for laminated glass, organic-coated glass, and plastics which are subject to the standard to demonstrate that those glazing materials will withstand exposure to sunlight, heat, water, and other factors which, over an extended period of time, may affect their breakage characteristics.

GLAZED PANELS

One risk of injury which the standard is intended to eliminate or reduce is the type resulting from accidents which occur when a person walks or runs into a glazed panel because the accident victim misperceives the glazed panel as open space rather than solid material.

To address this risk of injury, the products subject to the standard include glazed panels in nonresidential buildings which have the lower edge of the glazing material within 18 inches of a walking surface; an exposed surface of glazing material in excess of nine square feet; and a walking surface on both sides of the glazing material. The type of panel described above is defined as a glazed panel which is subject to the standard by § 1201.2(a)(10)(11)(iii) of the standard.

In the definition of "glazed panel" set forth in § 1201.2(a)(10)(iii), the following language is used to describe the location of the walking surfaces next to the glazing material:

> (C) There is a walking surface on *both* sides, *either* of which is within 36 inches (92 centimeters) of such panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other. [Emphasis added.]

The Commission has received several inquiries about the meaning of the language quoted above. Given a literal reading, that sentence states that if walking surfaces are present on both sides of a glazed panel, and if one of those walking surfaces is within 36 inches of the glazing material, the glazing material is subject to the standard no matter how far away from the glazing material the other walking surface may be located (assuming that the panel falls within all other conditions set forth in § 1201.2(a)(10)(iii)).

After careful consideration of these questions and the language of § 1201.2(a)(10)(iii), the Commission believes that the language of that section may be overly broad. The present language may include some glazed panels which have walking surfaces on both sides, but which do not present an unreasonable risk of injury by reason of being misperceived as open space, because one of those walking surfaces is sufficiently far away from the glazing material to provide a visual signal that glazing material is present.

For this reason, in the amendments proposed below, the definition of glazed panel which appears at § 1201.2(a)(10)(iii) has been modified to restrict its coverage to glazed panels which have walking surfaces on both sides of the glazing material, each of which is within 36 inches of the glazing material.

TEST FRAME

As stated above, the standard prescribes an impact test in which a specimen of glazing material is struck by an impactor to determine whether it will break, and if so, if its breakage characteristics are acceptable. The glazing material to be tested is clamped inside a subframe which is held in position by an upright steel frame. This equipment is illustrated in figures 1, 2, 3, and 4 of the standard, and is described in § 1201.4(b)(1).

Section 1201.4(b)(1)(iii) states: "The subframe * * * shall be reinforced at each corner." The illustration of the subframe in figure 4 of the standard depicts a subframe with reinforcement located at each corner of the inner members of the subframe.

To improve the clarity of § 1201.4(b)(1)(iii) and its consistency with figure 4, the Commission proposes to amend that section to state that the "inner subframe * * * shall be reinforced at each corner."

As described in § 1201.4(b)(1) and illustrated in figure 3, the subframe is constructed with neoprene strips at all points where the test speciment contacts the subframe. Figure 3 states that the neoprene strips shall have a Shore A, durometer hardness ranging from 30 to 45.

An inquiry from one manufacturer of glazing materials asks whether neoprene with a durometer hardness of 50 may be used in the subframe. The Commission has no information that the use of neoprene having a durometer hardness as great as 50 will improperly affect the outcome of the impact test specified in the standard. Further, the Commission is aware that neoprene having a durometer hardness as great as 50 has been utilized for several years in equipment used to test materials for compliance with ANSI standard Z97.1. For this reason, the Commission purposes to

amend the standard by revising figure 3 to specify neoprene of a Shore A, durometer hardness of 30 to 50 for use in the subframe.

IMPACTOR

As stated above, the impact test is performed by striking the test specimen with a leather bag which has been filled with lead shot and covered with tape. The impactor is dropped from a height of either 18 or 48 inches (depending on the intended use of the glazing material) in order to subject the test specimen to an energy of either 150 or 400 foot pounds.

The impactor is described in §1201.4 (b) (2) (i) of the standard in the following language:

> The impactor shall be a leather punching bag as shown in figure 5 of this section. The bag shall be filled with No. 7½ chilled lead shot to a total weight of completed assembly before taping, as shown in figure 5, of 100 pounds ±4 ounces (45.36 ± 0.11 kilograms). [Emphasis added.]

Because the purpose of the test apparatus and procedure is to generate an energy of 150 or 400 foot pounds, the description of the impactor in § 1201.4 (b) (2) (i) is slightly inaccurate in that it states that the punching bag shall weigh 100 pounds after it has been filled with lead shot but before it is taped. To correct this inaccuracy, the Commission proposes to amend this section to provide that the impactor shall weigh 100 pounds ±4 ounces after taping.

The commission also believes that the impactor should be supported in such a manner that it descends smoothly without wobbling or wiggling about its center of gravity. If the impactor descends smoothly, there should be greater uniformity in the nature of the impact from one test to the next. If, on the other hand, the impactor is allowed to wobble about its center of gravity as it descends, the involvement of the metal hardware at the top of the impactor might vary from impact to impact. Thus, in one test the metal might contact the test specimen very early in the test sequence, thereby producing an impact more severe than intended. In the next test, the metal hardware might not contact the test specimen at all.

In order to have the impactor descend smoothly without wobbling or oscillating, the present section 1201.4(b) (2) (ii) states:

> The impactor shall be supported as shown in figure 2. Provisions shall be made for raising the impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the pin going through its center was in line with the steel cable. The impactor shall not wobble or oscillate after its release.

The Commission believes that the first sentence of this section may be unduly restrictive because it permits no deviation from the support system depicted in figure 2 of the standard. A support system for the impactor is thought to be sufficient if the resultant of the support forces acting on the impactor passes through the center of gravity of the impactor, if the resultant is perpendicular to the steel cable supporting the impactor, and if the impactor is supported such that no twisting forces are imparted to it at its release.

The Commission also believes that the fourth sentence of § 1201.4(b) (2) (ii) may present unnecessary difficulty to persons conducting the impact test because it absolutely prohibits the presence of any wobbles or oscillation after the impactor is released. Wobble or oscillation of the impactor could occur, but to such a limited degree that its detection by the unassisted human eye would be difficult or impossible, without affecting the results of the impact test. Accordingly, the Commission proposes to amend the fourth sentence to indicate that the impactor shall be supported in a manner designed to minimize wobble or oscillation after its release.

ENVIRONMENTAL DURABILITY TESTS

In addition to the impact test, the standard also requires that some glazing materials must be subjected to accelerated environmental durability tests. The materials which must be subjected to environmental testing and the tests required for each such material are summarized in § 1201.4(a) (2) and Table 1 of the standard.

Table 1 states that plastics must be subjected to a simulated weathering test. This test requires exposure of specimens in a xenon arc Weather-Ometer for a period of 1200 hours, as specified by § 1201.4(d) (2) (ii) of the standard.

When the Commission issued the final standard on January 6, 1977 (42 FR 1427), it stated that an exposure of 1200 hours in a xenon arc Weather-Ometer had been estimated to represent the equivalent ultraviolet exposure of 2000 hours in the twin carbon arc Weather-Ometer used by many testers, and of 375,000 langleys of solar irradiation. The Commission further stated that it would consider amending the exposure required in the xenon arc Weather-Ometer if the results of an interlaboratory testing program sponsored by American National Standards Institute (ANSI) indicated that such a revision is necessary to obtain the equivalent exposures described above (see 42 FR 1437, January 6, 1977).

Preliminary results from this interlaboratory testing program, as well as subsequent communications from experts in the field of accelerated environmental durability testing, have demonstrated that the original estimated exposure period of 1200 hours in the xenon arc Weather-Ometer does not simulate 375,000 langleys of solar irradiation or produce the equivalent of 2000 hours in the twin carbon arc Weather-Ometer. Subsequently, the Plastic Safety Glazing Committee petitioned the Commission to amend the standard to require the use of a carbon arc Weather-Ometer or to increase the exposure of specimens in the xenon arc Weather-Ometer to 3480 hours. The Commission, in granting this petition, proposes to amend § 1201.4(d) (2) (ii) of the standard to increase the period of time for exposure of test specimens using the xenon arc Weather-Ometer to 3480±1 hours.

This exposure period is itself an estimate of the equivalent exposure of the glazing materials involved. Nevertheless, according to the best information available to the Commission at this time, the proposed exposure period of 3480±1 hours in the xenon arc Weather-Ometer provides a much closer approximation of the equivalent of 2000 hours in a twin carbon arc Weather-Ometer.

The Commission has considered the possibility that the standard could be amended to specify an exposure of 2000 hours in a carbon arc Weather-Ometer. Because of the differences in spectra of a xenon arc and a carbon arc, the Commission believes that a xenon arc provides a fairer, more universal test for the full range of organic coated glass and plastic glazing materials that now exist or may exist in the future. This belief is based on comparisons of the two spectra with that of the sun, and on the phenomenon of selective spectral absorption by glazing materials.

When the Commission receives the final results of the ANSI interlaboratory testing program, it may again consider amending the requirements for exposure in the xenon arc Weather-Ometer.

The proposed amendment to § 1201.4 (d) (2) (ii) which appears below also contains a change in the metric equivalent of the specified radiant flux. In its present form, § 1201.4(d) (2) (ii) states that the radiant flux shall be "50 microwatts per square centimeter (12 calories per second per square centimeter)." The metric equivalent appearing in parenthesis in the language quoted above is incorrect and should be 12 microcalories per second per square centimeter. The correction of this error in the amendment proposed below makes no substantive change to the radiant flux required by § 1201.4(d) (2) (ii).

Section 9(e) of the Consumer Product Safety Act, 15 U.S.C. 2058(e) provides that when an amendment to a consumer product safety rule involves a material change the procedures in section 7 and 9 apply. It is the Commission's view that the amendments proposed below do not involve a material change to the Standard because they do not affect the basic purpose and provisions of the Standard. Therefore, the provisions of section 7 and 9 (a)–(d) do not apply. However, the Commission believes the informal rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 553, do apply.

ENVIRONMENTAL EFFECTS

Because the proposed amendments involve only minor modifications to the standard, the Commission believes there are no potentially significant adverse environmental effects associated with the proposed amendments.

PROPOSAL

Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), 15 U.S.C. 2058(e)), and the Admin-

istrative Procedure Act, 5 U.S.C. 553, the Commission proposes to amend the Safety Standard for Architectural Glazing Materials by revising 16 CFR 1201.2 (a) (10) (iii), 1202.4(b) (1) (iii), 1201.4 (b) (2) (i), 1201.4(b) (2) (ii), 1201.4(c) (2), 1201.4(d) (2) (ii), and Figure 3 as follows:

§ 1201.2 Definitions.

(a) As used in this Part 1201:

* * * * *

(10) "Glazed panel" means a glazing material used in any building listed in § 1201.1(b) that is:

* * * * *

(iii) In all buildings other than residential buildings, all panels not described in paragraph (a) (10) (ii) of this section where:

(A) The lowest edge of the glazing material is less than 18 inches (46 centimeters) above any floor or any walking surface; and

(B) The exposed glazing material in such panel exceeds 9 square feet (0.3 square meters); and

(C) There is a walking surface on both sides, each of which is within 36 inches (92 centimeters) of such panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other.

* * * * *

§ 1201.4 Test procedures.

* * * * *

(b) *Test equipment—(1) Impact test frame and subframe.* * * *

(iii) The inner subframe (see figures 2, 3, and 4) for securing the test specimen on all four edges shall be reinforced at each corner. The material is shown as wood in figure 3, but other materials may be used provided the test specimen will contact only the neoprene strips.

* * * * *

(2) *Impactor.* (i) The impactor shall be a leather punching bag as shown in figure 5 of this section. The bag shall be filled with No. 7½ chilled lead shot to a total weight of completed assembly as shown in figure 5, of 100 pounds ±4 ounces (45.36±0.11 kilograms). The rubber bladder shall be left in place and filled through a hole cut into the upper part. After filling the rubber bladder, the top should be either twisted around the threaded metal rod below the metal sleeve or pulled over the metal sleeve and tied with a cord or leather thong. Note that the hanging strap must be removed. The bag should be laced in the normal manner. The exterior of the bag shall be completely covered by ½ inch 1.3 centimeters) wide glass filament reinforced pressure sensitive tape. (Figure 5.)

(ii) Provisions shall be made for raising the impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the rod going through its center was in line with the steel support cable in a manner designed to minimize wobble or oscillation after its release.

* * * * *

(d) *Test procedures.* * * *

(2) *Environmental durability test procedures* * * *

(ii) *Accelerated weathering test.* The specimens shall be retained in the Weather-Ometer (paragraph (b) (3) (ii) of this section) for a period of 3480±1 hours, and exposed to a radiant flux of 50 microwatts per square centimeter (12 microcalories per second per square centimeter) while monitoring at a wavelength of 340 nanometers.

* * * * *

Interested parties are invited to submit, on or before November 2, 1977, written comments regarding these proposed amendments to the Safety Standard for Architectural Glazing Materials.

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a supporting memorandum or brief. Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3d Floor, 1111 18th Street NW., Washington, D.C. 20207.

Dated: September 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

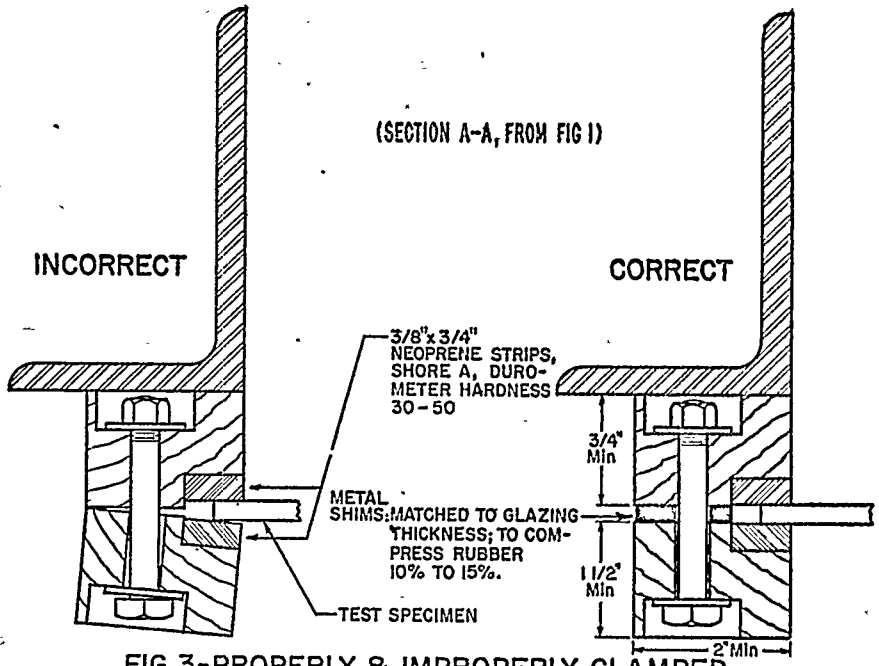

FIG 3-PROPERLY & IMPROPERLY CLAMPED TEST SPECIMEN(>1/8" THICK)

[FR Doc.77-28820 Filed 9-30-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP-77-8; CP-77-14, CP-77-15]

ARCHITECTURAL GLAZING MATERIAL

Denial of Petitions

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petitions.

SUMMARY: The Commission has denied petitions from the National Association of Home Builders, the National Lumber & Building Material Dealers Association, and the Mahoney Sash & Door Co., who petitioned the Commission to exempt certain doors which contain architectural glazing materials from the scope of the Safety Standard for Architectural Glazing Materials.

FOR FURTHER INFORMATION CONTACT:

Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 303-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

On April 1, 1977, the National Association of Home Builders (NAHB) filed a petition to amend the Safety Standard for Architectural Glazing Materials to exempt openings in glazed doors through which a six-inch diameter sphere is unable to pass.

On June 10, 1977, NLBMDA filed a petition requesting an amendment to exempt openings in doors through which an eight-inch diameter sphere is unable to pass. This petition was endorsed by NAHB.

On July 6, 1977, Edward A. Mahoney, Jr., of the Mahoney Sash & Door Co., filed a petition requesting an amendment from the standard to exempt traditional wood stile and rail doors from the standard for architectural glazing materials, if the glazing material begins at least 42 inches off the floor.

In the three petitions, the petitioners allege that doors with small panes of glass, or with panes of glass beginning more than 42 inches off the floor, do not present the risks of injury that the standard was designed to reduce or eliminate. The petitioners also allege that the standard increases the cost for such doors out of proportion to the benefits, and that the utility and availability of substitute glazing materials are inadequate.

After careful consideration of these matters set forth in these petitions, and a review of information currently available to the Commission on these matters, the Commission has denied these petitions. The Commission has taken this action because it continues to conclude that the products affected by the petitions, if not manufactured in accordance with the Safety Standard for Architectural Glazing Materials, present the unreasonable risks of injury that the standard was designed to reduce or eliminate.

The Commission has reviewed 131 in-depth investigation reports collected during 1975 and 1976 for doors (other than storm doors) with glass panes. Of 126 for which the width of the panes could be determined, 7 of the accidents were associated with panels less than 6 inches wide, and 12 with panes 6.5 to 8 inches wide. Of those reports in which the height of the lowest edge of glazing material was provided, 20 were associated with panes whose lowest edge was 42 inches or more from the floor. Several additional injuries appear to be related to panes whose lowest edge is approximately 42 inches off the floor, although no measurements were provided. All the accidents appear to be of the same type and severity as occur with architectural glazing materials in general, and of the type the standard was designed to reduce or eliminate.

The Commission also determined what body parts could pass through various openings in doors. For adults, a six-inch opening would accept a fist, arm, or leg above the knee. An eight-inch opening could admit a head. A forty-two inch limitation on height could permit upper trunk interaction with the glazing material.

The Commission recognized in issuing the standard that the costs of doors would increase as a result of the standard. However, the Commission has no information, nor have the petitioners provided information, to indicate that there are any significant errors in the cost estimates made at the time of issuance of the standard.

The Commission understands that many doors had been covered by those state safety glazing laws which were in existence prior to the effective date of the standard. Furthermore, various trade organizations have issued voluntary industry standards to require glazing materials complying, first with existing voluntary standards, and now with the Commission's standard. Therefore, complying doors should soon replace non-complying doors in the chain of distribution because of voluntary action and the requirements of the standard.

Finally, the Commission believes on the basis of the information before it that glazing materials that comply with the Commission standard can be obtained for replacing broken glazing material in doors, and that such glazing materials are satisfactory replacements. Replacement materials include prefabricated tempered inserts for standardized doors, laminated glass, and plastic glazing materials.

Accordingly, in accordance with section 10(d) of the Consumer Product Safety Act (15 U.S.C. 2059(d)), the petitions are denied.

Dated: September 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-28821 Filed 9-30-77;8:45 am]

[6355-01]

[Petition No. CP 77-5]

ARCHITECTURAL GLAZING MATERIAL

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition from Robert J. Cunitz, Ph. D., who petitioned the Commission to issue a consumer product safety rule (or an amendment to the Safety Standard for Architectural Glazing Materials, 16 CFR 1201), which would impose requirements for visual barriers on architectural glazing materials used for doors and certain windows, and to modify the design of the impactor used to perform some of the testing required by the standard.

FOR FURTHER INFORMATION CONTACT:

Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

By letters dated November 23, 1976, and January 26, 1977, Dr. Cunitz petitioned the Commission to initiate a proceeding under § 7 of the Consumer Product Safety Act to issue a consumer product safety rule which would require the use of a visual barrier such as decals, etchings, or engravings on any glazing materials used in or as doors, and on any glazing material used for windows, if the bottom edge of the glazing material is located within two and one-half feet of any walking surface, if the height of the glazing material exceeds one foot, and if the width of the glazing material exceeds one foot. Alternatively, the petition requested amendment of the Safety Standard for Architectural Glazing Materials to include requirements for visual barriers for the products described above.

Additionally, the petition requested the Commission to amend the Safety Standard for Architectural Glazing Materials

to modify the design of the item of test equipment which is called an impactor in the standard, and which is used to perform the impact test prescribed by the standard.

In assessing the question of whether to begin a standard development proceeding for a consumer product, the Commission considers whether the product presents an unreasonable risk of injury, whether a standard is necessary and whether the petitioner or other consumers would be unreasonably exposed to a risk of injury presented by the product if the Commission failed to commence the proceeding requested. In determing whether a product presents an unreasonable risk of injury and whether a consumer product safety standard or amendment is necessary to address a risk of injury, the Commission weighs the degree, nature, and frequency of injury or injury potential associated with the consumer product against the potential effect of a standard on the cost, utility, and availability of the product. The Commission also considers the relative priority of the risk of injury associated with the product and the Commission's resources available for rulemaking with respect to that risk of injury (see the procedures for petitioning for rulemaking under section 10 of the CPSA, 16 CFR 1110.11(b)). The Commission policy on establishing priorities for commission action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

After careful consideration of the matters set forth in this petition, and a review of all information now available to the Commission about these matters, the Commission has denied the petition. The Commission has taken this action because it concludes that the information available to it which is relevant to the issues raised by the petition is not an adequate basis to support the action requested by the petition.

With regard to the first issue raised by the petition—risks of injury which may result from human impacts with glazing materials in doors and certain windows and in which the impacts do not cause those materials to break—the Commission has examined reports of in-depth investigations of injuries associated with glazing materials in doors and glazed panels. Of 250 such reports since January 1974, two reports described injuries associated with glazing materials which did not result from the breakage of those materials. In one of these cases, a visual barrier of the type urged in the petition might have prevented the accident. In the other case, such a barrier probably would not have prevented the accident. However, the lack of injury data does not conclusively show that architectural glazing materials that do not break have no injury potential. Because the Commission's standard for glazing materials requires certain glazing to be impacted with 400 foot pounds of energy and either to break with characteristics such that the glazing is less likely to present an unreasonable risk of injury or not to break, it is possible that injury potential due to contact with glazing that does not break may be increased. There is no information, however, that shows that decals, etchings, or engravings on the glazing will prevent accidents from occurring particularly in those situations where the hazard is due to accidentally falling into or through glazing, or due to installing, replacing, storing, or otherwise manipulating the glazing (16 CFR 1201(d)(1)(ii), (iii). These risks of injury would not appear to be reduced by visual barriers.

The Commission concludes that the portion of the petition requiring that visual barriers be mandated should be denied because of the lack of available information sufficient to establish that the absence of visual barriers for doors and certain windows presents an unreasonable risk of injury; that a mandatory standard requiring such visual barrier is necessary; or that the failure of the Commission to initiate a standard development proceeding to mandate visual barriers would unreasonably expose consumers to a risk of injury presented by doors and certain windows containing architectural glazing materials which do not break when impacted.

With regard to the second issue raised by the petition—the alleged inadequacy of the design of the impactor specified in the standard—the Commission has no information which would confirm or refute the allegations of the petition. Limited studies performed for the Commission (to compare the effects of impacting glazing materials by the use of an anthropomorphic dummy with the effects of impacting glazing materials by the use of the impactor specified in the standard) are inconclusive. However, the impactor designated in the standard has a long history of use in the voluntary industry standard, ANSI Z97.1. In the absence of some information tending to support the allegations concerning the inadequacy of the impactor, the Commission is unable to conclude that use of the impactor specified in the standard, along with the criteria for "passing" the standard results in glazing materials that present an unreasonable risk of injury. On the contrary, in issuing the standard, the Commission concluded that the standard was reasonably necessary to eliminate or reduce an unreasonable risk of injury. In view of the foregoing, the Commission is unable to find that an amendment to the standard concerning the type impactor is necessary. In addition, the Commission believes that based on presently available information, the failure of the Commission to initiate a standard development proceeding for the purpose of modifying design of the impactor would not unreasonably expose the petitioner or other consumers to a risk of injury presented by products covered by the standard which contain architectural glazing materials.

This notice of the Commission's denial of the above-described petition and its reasons for denial has been issued pursuant to section 10(d) of the Consumer Product Safety Act, 15 U.S.C. 2059(d).

Dated: September 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc. 797-28822 Filed 9-30-77; 8:45 am]

federal register

MONDAY, OCTOBER 3, 1977

PART V

ENVIRONMENTAL PROTECTION AGENCY

■

TOXIC SUBSTANCES CONTROL

Supplemental Notice to Proposed Inventory Reporting Requirements; Draft Reporting Forms

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 710]

[OTS-081002A; FRL 792-7]

TOXIC SUBSTANCES CONTROL

Supplemental Notice to Proposed Inventory Reporting Requirements; Draft Reporting Forms

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice to proposed rules; draft forms.

SUMMARY: This document supplements the inventory reporting regulations reproposed on August 2, 1977 in the FEDERAL REGISTER (42 FR 39182). Specifically, this notice provides some information that may be useful in understanding the reproposed regulations and provides draft reporting forms for comment.

DATES: Comments on the draft reporting forms must be received on or before October 13, 1977. Comments on other issues raised in this notice must be received on or before November 2, 1977. These comments may supplement any comments previously submitted with respect to any issue raised by this notice.

ADDRESS: Comments should be addressed to the Federal Register Section, WH-557, Office of Toxic Substances, Attention: Joan Urquhart, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation OTS-081002A. All written comments filed pursuant to this notice will be available for public inspection at that office from 8:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0535).

SUPPLEMENTARY INFORMATION: This document supplements the regulations proposed on August 2, 1977, in the FEDERAL REGISTER (42 FR 39182) under the authority of subsection 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA.

On March 9, 1977, EPA first published in the FEDERAL REGISTER (42 FR 13130) proposed inventory reporting regulations to govern reporting of chemical substances for inclusion on an inventory of chemical substances required by subsection 8(b) of TSCA. On April 12, 1977, EPA published a supplemental notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 19298) providing additional information pertaining to the proposed inventory regulations. This notice set forth instructions for use of a Candidate List of Chemical Substances and specified minerals which EPA proposed to include in the inventory of chemical substances. On April 18, 1977, EPA held a public meeting in Washington, D.C., to provide interested persons an opportunity to comment publicly on the proposed regulations. On April 28, 1977, EPA published a notice of availability of the Candidate List of Chemical Substances for use in reporting chemicals for inclusion on the inventory (42 FR 21639). In addition, on July 8, 1977, the Agency published a notice to amend the procedures for securing a copy of the Candidate List on computer-readable tape (42 FR 35183).

On August 2, 1977, EPA reproposed the inventory reporting regulations to revise the March 9, 1977, proposed regulations. In order to provide interested persons an opportunity to comment publicly on the proposed regulations, EPA held a public meeting in Washington, D.C., on August 24, 1977. A transcript of the public meeting is available for public inspection in the Office of Toxic Substances at the address provided above. At this meeting, EPA distributed copies of draft reporting forms to accompany the reproposed regulations. Copies of the revised forms are published below for public comment. In addition, EPA presented some introductory comments on the reproposed regulations. Copies of these remarks are available from the Office of Industry Assistance at the address above.

CLARIFICATION CONCERNING IMPORTERS OF MIXTURES AND ARTICLES CONTAINING A CHEMICAL SUBSTANCE

Some have brought to EPA's attention ambiguity in the August 2, 1977, preamble regarding the statutory requirements on importers of mixtures and articles containing a chemical substance.

Section 710.3(a)(2) of these regulations provides that importers would be required to report those chemical substances they have imported into the United States for a commercial purpose since January 1, 1977. Section 710.3(b) of the regulations provides that any person who imported a chemical substance for a commercial purpose since January 1, 1975, may report concerning that substance. In addition, § 710.3(c) provides that during a 120-day period following the first publication of the inventory, any person who has processed or used a chemical substance (including the manufacture of a mixture or article containing that chemical substance) for a commercial purpose since January 1, 1975, may report that substance if it was not included in the inventory. The preamble to these regulations stated at page 39185 that it was EPA's intent that importers would not be required to report the chemical substances which are components of the articles they import.

EPA is proposing that importers of chemical substances be *required* to report all chemical substances they have imported in bulk into the United States since January 1, 1977 and that they be *permitted* to report all chemical substances they have so imported since January 1, 1975. In addition, EPA is proposing that importers of chemical substances be *permitted* to report each chemical substance which is a component of a mixture or article which has been imported since January 1, 1975. Importers may report chemical substances comprising an imported mixture or article during either the initial reporting period or the 120-day period following publication of the initial inventory. As proposed the August 2, 1977 preamble, chemicals imported "in bulk" includes all chemical substances which are imported in cans, bottles, drums, barrels, packages, tanks, bags, and other devices which are used to contain the substances during importation.

The clarification with respect to chemical substances comprising an imported mixture or article becomes significant in light of EPA's proposed implementation of section 5(a)(1)(A) of TSCA. This section provides that no person may manufacture a new chemical substance (one not included on the inventory compiled in accordance with section 8(b)) unless that person submits premanufacture notification to EPA at least 90 days prior to manufacturing the chemical substance for a commercial purpose. The premanufacture notification requirement of section 5(a)(1)(A) applies to manufacturers and, because the term "manufacture" includes "import", importers of chemical substances. Since an importer of a mixture or article is also importing the component chemical substances in the mixture or article, such an importer would be subject to the premanufacture notification requirements with respect to all new chemical substances in the mixture or article. However, EPA intends to apply the premanufacture notification requirements of section 5(a)(1)(A) only to importers of chemical substances in bulk and importers of chemical substances in mixtures. As is discussed in greater detail below, the premanufacture notification requirements of section 5 will not be applied to the importation of an article containing a new chemical substance.

Accordingly, although importers of chemical substances in mixtures would not be required to report for compilation of the inventory, they should ensure that the chemical substances they import in mixtures are included on the inventory. After compilation of the expanded inventory on the basis of the 120-day reporting period, no person will be permitted to import a mixture containing a new chemical substance except in accordance with TSCA section 5.

The legislative history of TSCA makes clear that Congress intended the premanufacture notification requirements of section 5 to provide the Administrator with an opportunity to review and evaluate information on new chemical substances to determine if any regulatory controls would be necessary to prevent an unreasonable risk of injury to health or the environment. The section reflects Congress' recognition of the

fact that the most desirable time to determine effects of a substance and to take action if necessary, is before full commercial production begins. Congress did not intend that the purposes of this section could be circumvented by importation rather than domestic manufacture of a chemical substance. If EPA did not require importers to report any new chemical substance contained in an imported mixture, persons could manufacture new chemical substances abroad, mix them with water or other solvents, and import them into the United States as a mixture. This practice would not only significantly undermine the intent of Congress that any new chemical substance be subject to review before its introduction and use in commerce, but might also encourage domestic manufacturers to move at least part of their operations abroad. EPA does not believe that Congress intended such a result.

Moreover, Congress intended domestic manufacturers and importers to be treated with parity (H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 12-13). Premanufacture notification must be given on every new chemical substance manufactured domestically. If the importer of a mixture were not required to give premanufacture notification on any new chemical substance in a mixture, the domestic manufacturers would be put at a distinct disadvantage. An importer could enter domestic markets with a substantial savings of both time and money. The costs in terms of protection of the public health and environment would thereby be significant. Accordingly, importers of mixtures will be required to give premanufacture notification of new chemical substances.

It is the proposed Agency policy that the premanufacture notification requirements of section 5(a)(1)(A) should not be applied to the importation of chemical substances in articles. The March 9, 1977 proposed regulations would have required importers to report chemical substances contained in the articles they import. The August 2, 1977 reproposed regulations would permit but not require importers of an article to report component chemical substances for the inventory. As was discussed in the preamble to these reproposed regulations (42 FR 39185), comments from industry and trade associations argued that it would be extremely burdensome for importers to identify the chemical substances contained in the articles they import. According to estimates from the American Importers Association, the total direct costs would range from $187 million to about $437 million. The value of the component chemical substance(s) may be small in proportion to the value of the article itself. Accordingly, to require an importer of the article to identify its constituent chemical substances would impose a proportionately greater burden. Moreover, EPA does not believe that domestic manufacturers of articles would move their operations abroad or be put at a serious disadvantage if the importer is not required to identify constituent substances in articles. Finally, because of its form, the health and environmental risk posed by a chemical substance imported in an article may be less than the risk posed by a chemical substance imported in bulk or in a mixture.

Accordingly, the inventory reporting requirements of section 8(a) and the premanufacture notification requirements of section 5(a)(1)(A) will not be applied to importers of chemical substances in articles. However, the Agency will exercise its authority to regulate the import of chemical substances in bulk, in mixtures, and in articles under section 6 of the Act, as necessary to protect against unreasonable risks of injury to health and the environment. This might, for example, include prohibiting, limiting or in other ways restricting the import of such chemical substances.

The Agency encourages importers of chemical substances in mixtures to ensure that the chemical substances they import are included on the inventory. If the importer chooses to report for the inventory in accordance with § 710.5(e) of the proposed regulations, he could authorize the foreign supplier of the chemical substance to report to EPA on his behalf, if both the foreign supplier and the importer sign the declarations provided on the reporting form. EPA, however, encourages importers of chemical substances in mixtures to wait to report until after the initial inventory is published next fall. Many of the imported chemical substances may be contained in the inventory, and importers could thus avoid duplicative reporting.

EPA solicits comment concerning this revision to the earlier proposals. EPA specifically welcomes comment on the distinctions we propose between importers of chemical substances in mixtures and importers of chemical substances in articles, and, in particular, on the relative burdens which would be imposed to these two sectors. The Agency has already received some comments on the broad issues and these need not be resubmitted. Conforming changes will be made to the final inventory reporting regulations.

Reporting on Magnetic Tape

EPA is currently working with the Chemical Abstracts Service (CAS) to develop a computer file structure which can be used to allow persons to report chemical substances with CAS registry numbers on magnetic tape. These substances otherwise would be reported on either Form A or B, as discussed below. Instructions concerning how to report by magnetic tape will be included with the final regulations. EPA will probably require that there be a minimum number of substances reported on a tape so that reporting by tape would be at least as efficient as by the forms. In addition, anyone submitting a tape would have to submit at least one form with a signed certification statement and, for tapes containing confidential information, sign and submit appropriate confidentiality statements.

A Word of Caution

Several manufacturers have complained to EPA that they have spent substantial amounts of time and money compiling inventories in response to the March 9, 1977 and August 2, 1977 proposed regulations. The March 9, 1977 and August 2, 1977 proposed regulations are proposals published for public comments. The regulations will be revised in response to public comment before final promulgation. Accordingly, manufacturers and others are encouraged to keep this in mind as they prepare for compiling information for submittal to EPA.

Reporting Forms: Form A, B, & C

EPA is proposing four forms for reporting under these regulations. Form A is for reporting chemical substances which are included on the Toxic Substances Control Act (TSCA) Candidate List of Chemical Substances, a list of approximately 33,000 chemical substances. This Candidate List was published by EPA last April and is available through the Office of Industry Assistance in EPA's Office of Toxic Substances. It was compiled as a tool for reporting chemical substances that are included on it. Form A provides space for the Chemical Abstracts Service (CAS) registry number and code designaeion which are provided for each of the chemical substances in the Candidate List. The code designation is a check number to verify that the corresponding CAS registry number was entered correctly. Code designations will not be included in the inventory. For any listed chemical, a manufacturer merely has to report these numbers on Form A rather than the chemical name or description of the chemical substance.

Everything on the Candidate List will not automatically be included on the inventory. Only those substances that are reported will be included. Further, not everything on the List is eligible for inclusion in the inventory. The Candidate List contains some mixtures such as hydrates and some chemical substances, such as those used solely as drugs and pesticides, which are excluded under these proposed regulations. In addition, the Candidate List contains naturally occurring substances which need not be reported as they will automatically be included in the inventory.

Many product trademarks are included in the Candidate List but should not be reported for the inventory. Product trademarks will not be included on the inventory because they may refer to mixtures or, in the case of trademarked chemical substances, the trademark may not always be linked with that specific substance over time. The product trademark may, however, be reported on Form D, as is discussed below. Product trademarks should be distinguished from certain generic names, such as Colour Index names, included on the Candidate List which may be reported. The purpose of the proposed Form D for trademarked products is discussed more fully below.

Form B is for reporting chemical substances which have chemical Abstracts Service Registry Numbers but are not included in the Candidate List. Form C is for reporting either chemical substances which do not have a Chemical Abstracts Service Registry Number or whose identities are confidential.

On each of the forms there will be an opportunity for manufacturers to assert all potential confidentially claims. If a manufacturer makes a confidentiality claim, he must sign a statement that certifies that certain statements concerning confidentiality printed on the back of the forms are true. EPA welcomes any comments concerning the provisions concerning confidential information, the clarity of the instructions, or any other aspect of the forms. These comments must be received on or before [ten days after publication of this notice] so that EPA may make appropriate modifications prior to publication of these forms.

FORM D: PRODUCT TRADEMARKS LIST

EPA has received comments from processors and users of chemical substances that they do not always know the chemical identities of the substances they purchase. Rather, they often know only the product trademarks. Accordingly, during the special 120-day reporting period, processors and users may have difficulty identifying whether or not the chemical substance(s) they purchase are in fact on the inventory. Processors could individually request suppliers to certify the substances that they sell are being reported. In order to ease this burden somewhat, we are proposing to provide an opportunity for manufacturers who sell products under product trademarks to certify that the chemical substances have been reported for the inventory and to report those trademarks to EPA on a separate form. A manufacturer would not be required to report his trademarks.

EPA would not require manufacturers who chose to report their trademarks to link the product trademarks with specific chemical substances. We realize that many trademarks refer to mixtures of varying compositions. Thus, linking a trademark to one specific chemical substance would in some instances be inaccurate or misleading. To require product trademarks to be defined in terms of their component chemical substances may be desirable for future requirements, but we feel it would be too burdensome for the limited purpose of compilation of the inventory.

EPA would publish a separate document along with the initial inventory that would simply list alphabetically those product trademarks which had been reported by manufacturers. As mentioned earlier, a manufacturer would first have to certify that all the chemical substances subject to these regulations contained in the trademarked products have been reported to EPA as required by the inventory regulations. Reporting of any false information would be subject to criminal penalty under 18 USC 1001.

EPA welcomes comment on the usefulness of this approach. In particular, as proposed here, a person may report a trademarked product that is a chemical substance, a mixture, or an article containing a chemical substance. EPA is proposing to permit reporting on Form D of trademarked mixtures and articles to provide a simple mechanism for manufacturers of these mixtures and articles to assure their customers that the chemical substances contained in the mixture and articles have been reported for the inventory. EPA welcomes comment on whether such reporting should be permitted.

Dated: September 26, 1977.

DOUGLAS M. COSTLE,
Administrator.

U.S. Environmental Protection Agency
Chemical Substance Inventory Report
Section 8(a) and (b) -- Toxic Substances Control Act
(15 U.S.C. 2607)

Instructions
Form A: TSCA Candidate List Chemical Substances

Form A may only be used to report, for the Toxic Substances Control Act (TSCA) Section 8(a) and Section 8(b) Inventory, chemical substances that are identified in the EPA publication "Toxic Substances Control Act (TSCA), PL 94-469, Candidate List of Chemical Substances," April 1977, GPO Stock Number 055-007-00001-2, or in any addendum to that list published by EPA in the FEDERAL REGISTER. Chemical substances with known Chemical Abstracts Service (CAS) Registry Numbers but which do not appear in the TSCA Candidate List of Chemical Substances should be reported using Form B A chemical substance which has no known CAS Registry Number and/or whose identity as a commercial chemical substance is claimed confidential, must be reported on Form C

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). A Guide to the Use of the Candidate List of Chemical Substances appears in Appendix A of the inventory reporting regulations. After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III of the form.

TYPE OR USE A BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association must sign the form. If an importer elects to have his foreign supplier/manufacturer complete block V of this form, the importer must, nevertheless, sign the form, and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME and TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION:

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S)

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form. An importer who elects to have his foreign supplier/manufacturer complete block V should enter the name and address of his foreign supplier/manufacturer.

BLOCK V. CANDIDATE LIST CHEMICAL SUBSTANCES:

CAUTION: The TSCA Candidate List of Chemical Substances inappropriately includes some mixtures and certain chemical substances which, as explained in the inventory reporting regulations, are excluded from the inventory. Do not report mixtures or excluded chemical substances. Furthermore, the Candidate List includes some trademarks. Do not use Candidate List entries which are trademarks to identify and report chemical substances. Trademarks will not be included on the inventory.

Up to 27 Candidate List chemical substances may be reported on this form. Manufacturers and processors should report on this form only TSCA Candidate List chemical substances which are manufactured or processed at the plant site identified in block III.

For each chemical substance entered in block V:

1. Enter in the column labeled "CAS Registry Number" the Chemical Abstracts Service (CAS) Registry Number as it appears in the Candidate List. Include hyphens.

2. Enter in the column labeled "EPA Code Designation" the code number (including hyphen) which accompanies the CAS Registry Number in the Candidate List

3 As specified below, make the appropriate entry in the box under "Production Volume". Quantitites should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600)

a) Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.

b) Processors: If you only processed the chemical substance since January 1, 1975, make no entry.

c) Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

4. Enter a check in the appropriate box(es) under the general heading "Activity" to indicate whether you manufacture, process, and/or import the chemical substance. Check as many boxes as applicable.

5. Enter a check in the box under "Site Limited" if you manufacture the chemical substance within the plant site identified in block III and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

6 Confidentiality Claims:

Enter checks in the appropriate boxes to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

(a) By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(b) By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(c) By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commerical purposes is confidential.

(d) By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

(e) By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

(f) By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

(g) By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

OMB NO._____

U. S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 8 (a) and (b) Toxic Substance Control Act 15 USC 2607)

FORM A

I. CERTIFICATION STATEMENT: I hereby certify that: (1) each chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1975, and can be reported for the inventory (40 CFR 710); (2) all information provided on this form is complete and accurate; and (3) the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information here reported.

SIGNATURE | DATE (MO., DAY, YEAR) | NAME & TITLE (TYPE OR PRINT)

EPA USE ONLY MID | II. CORPORATION

III. PLANT SITE: NAME & ADDRESS

Name

Address

City | State

Zip

IV. PRINCIPAL TECHNICAL CONTACT(S)

FORM NO. A-1

V. TSCA CANDIDATE LIST CHEMICAL SUBSTANCES (LIST ADDITIONAL SUBSTANCES ON SEPARATE FORMS)

NUMBER	CAS REGISTRY NUMBER	EPA CODE DESIGNATION	PRODUCTION VOLUME	ACTIVITY: MANUFACTURE	ACTIVITY: PROCESS	ACTIVITY: IMPORT	SITE LIMITED	CONFIDENTIALITY CLAIM: (a) MANUFACTURE	(b) PROCESS	(c) IMPORT	(d) SITE LIMITED	(e) PRODUCTION VOLUME	(f) CORPORATION	(g) PLANT SITE	EPA USE ONLY	NUMBER
1																1
2																2
3																3
4																4
5																5
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8																8
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26																26
27																27

EPA NO. _____

CONFIDENTIALITY STATEMENTS
[For Chemical Substance Inventory Report Forms A and B]

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims."

a. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

b. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

c. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.

d. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

e. By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

f. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

g. By checking the box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
Section 8(a) and (b) — Toxic Substances Control Act
(15 U.S.C. 2607)

-Instructions-
FORM B: Chemical Substances with CAS Registry Numbers

Form B may only be used to report, for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Inventory, chemical substances with known Chemical Abstracts Service (CAS) Registry Numbers. Chemical substances which appear in the TSCA Candidate List of Chemical Substances, should be reported using Form A. A chemical substance which has no known CAS Registry Number and/or whose identity as a commercial chemical substance is claimed confidential, must be reported on Form C.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box ____
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III.

TYPE, OR USE A BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association must sign the form. If an importer elects to have his foreign supplier/manufacturer complete Block V of this form, the importer must, nevertheless, sign the form and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME and TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION:

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS:

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S)

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form. An importer electing to have his foreign supplier/manufacturer complete block V, should enter the name and address of the foreign supplier/manufacturer.

BLOCK V. CHEMICAL SUBSTANCES WITH CAS REGISTRY NUMBERS

Up to 10 chemical substances may be reported on this form. Manufacturers and processors should report on this form only chemical substances with CAS Registry Numbers which are manufactured or processed at the plant site identified in block III.

For each chemical substance entered in Block V:

1. Enter in the column "CAS Registry Number" the Chemical Abstracts Service (CAS) Registry Number. Include hyphens.

2. Enter in the column labeled "Specific Chemical Name" the systematically derived or other specific chemical name. Enter only nonconfidential chemical names. All names reported in this column will be published in the inventory with the CAS Registry Number.

3. As specified below, make the appropriate entry in the box under "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).

   a) Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.

   b) Processors: If you only processed the chemical substance since January 1, 1975, make no entry.

   c) Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

7. Enter a check in the appropriate box(es) under the general heading "Activity" to indicate whether you manufacture, process, and/or import the chemical substance. Check as many boxes as applicable.

8. Enter a check in the box under "Site Limited" if you manufacture and process the chemical substance only within the plant site identified in block III and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

9. CONFIDENTIALITY CLAIMS

Enter checks in the appropriate blocks to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

(a) By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(b) By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(c) By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.

(d) By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

(e) By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

(f) By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block III is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

(g) By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed, for commercial purposes at this particular plant site.

OMB NO._____

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 8(a) and (b) Toxic Substances Control Act 15 USC 2607)

FORM B

I. CERTIFICATION STATEMENT: I hereby certify that: (1) each chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1975, and can be reported for the inventory (40 CFR 710; (2) all information provided on this form is complete and accurate; and (3) the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information here reported.

SIGNATURE | DATE (MO., DAY, YEAR) | NAME & TITLE (TYPE OR PRINT)

(EPA USE ONLY) MID

II. CORPORATION

III. PLANT SITE: NAME & ADDRESS

- Name
- Address
- City | State
- Zip

IV. PRINCIPAL TECHNICAL CONTACT(S)

FORM NO. B—

V. CHEMICAL SUBSTANCES WITH CAS REGISTRY NUMBERS (LIST ADDITIONAL SUBSTANCES ON SEPARATE FORMS)

NUMBER	1	2	3	4	5	6	7	8	9	10
EPA USE ONLY										
CONFIDENTIALITY CLAIMS (g) PLANT SITE										
CONFIDENTIALITY CLAIMS (f) CORPORATION										
CONFIDENTIALITY CLAIMS (e) PRODUCTION VOLUME										
CONFIDENTIALITY CLAIMS (d) SITE LIMITED										
CONFIDENTIALITY CLAIMS (c) IMPORT										
CONFIDENTIALITY CLAIMS (b) PROCESS										
CONFIDENTIALITY CLAIMS (a) MANUFACTURE										
ACTIVITY SITE LIMITED										
ACTIVITY IMPORT										
ACTIVITY PROCESS										
ACTIVITY MANUFACTURE										
PRODUCTION VOLUME										
SPECIFIC CHEMICAL NAME										
CAS REGISTRY NUMBER										
NUMBER	1	2	3	4	5	6	7	8	9	10

EPA NO._____

CONFIDENTIALITY STATEMENTS
[For Chemical Substance Inventory Report Forms A and B]

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims."

a. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

b. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

c. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.

d. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

e. By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

f. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

g. By checking the box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

U.S. Environmental Protection Agency
Chemical Substance Inventory Report
Section 8(a) and (b) -- Toxic Substances Control Act
(15 U.S.C. 2607)

-Instructions-
Form C: Chemical Substance Whose Identity is Claimed Confidential or Whose CAS Registry Number is Unknown

Form C may only be used to report, for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Inventory, a chemical substance whose identity as commercial chemical substance is claimed confidential or whose Chemical Abstract Service (CAS) Registry Number is unknown. Chemical substances which appear in the TSCA Candidate List of Chemical Substances should be reported using Form A. Chemical substances with known CAS Registry Numbers but which do not appear in the TSCA Candidate List of Chemical Substances should be reported using Form B.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box ____
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III.

TYPE, OR USE BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement should be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association should sign the form. If an importer elects to have his foreign supplier/manufacturer complete block V of this form, the importer must, nevertheless, sign the form, and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME AND TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION:

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS:

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S):

Enter the name, address, and telephone number (including area code), of the person(s) whom EPA may contact for clarification of information submitted on this form. An importer electing to have his foreign supplier/manufacturer complete block V, should enter the name and address of the foreign supplier/manufacturer.

BLOCK V. CHEMICAL SUBSTANCE WHOSE IDENTITY IS CONFIDENTIAL and/or CAS REGISTRY NUMBER IS UNKNOWN

A. SPECIFIC CHEMICAL NAME: Indicate whether the chemical substance proposed for inclusion in the inventory falls within class 1 or 2, described as follows:
Class 1 chemical substances are distinct chemicals which can be represented by definite structural diagrams. For a class 1 chemical substance, propose, if possible, a systematically derived name that uniquely defines the chemical species. Also provide synonyms known to you, other than trademarks, by which the chemical substance is commonly known.

Class 2 chemical substances are those which can not be named by a class 1 description. For a class 2 chemical substance, propose a name which is as descriptive of the substance as possible. Also provide synonyms known.

B. ACTIVITY: Check the appropriate box(es) to indicate whether you import, manufacture, or process the chemical substance at the plant site identified in block III. Check as many boxes as applicable.

C. PRODUCTION VOLUME: As specified below, make the appropriate entry in the blank provided for "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).

1. Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.

2. Processors: If you only processed the chemical substance since January 1, 1975, make no entry.

3. Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

D. CONFIDENTITALITY CLAIMS:

Enter checks in the appropriate boxes to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

1. By checking the box under "Chemical Identity" for the substance reported, you assert that the chemical identity of the particular substance on the TSCA inventory is confidential. Enter the CAS Registry Number (including hyphens), if known. Check one or more of the justification statement boxes which refer to statements appearing on the back of this form under Item 1. These statements explain the reasons for asserting the identity to be confidential. EPA must know the reason for asserting the identity to be confidential.

In addition, provide a generic name for inclusion on the Inventory which is only as generic as necessary to protect the confidential identity of the particular chemical substance.

2. By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

3. By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

4. By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.

5. By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

6. By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

7. By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

8. By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

E. STRUCTURAL AND SUPPLEMENTAL INFORMATION

For Class 1 chemical substances, provide a structure diagram indicating the atoms and the nature of the bonds joining the atoms. Stereochemistry, if known, and ionic charges should be shown. In addition, provide a molecular formula which is an inventory of the kinds and numbers of atoms present in the molecule without regard to how the atoms are bonded.

For Class 2 chemical substances, describe, in the form of a reaction scheme, the final reaction sequence used to produce the reported chemical substance. Such description should identify all immediate precursor substance(s) and the nature of the reaction. All reactants should be identified by their CAS Registry Numbers, if known. In addition, provide, to the extent possible, a partial structural diagram.

Supplemental instructions for the proper identification of chemical substances is provided in Appendix A of the inventory reporting regulations (40 CFR 710)

OMB NO._____

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 8 (a) and (b) Toxic Substance Control Act 15 USC 2607)

FORM C

I. CERTIFICATION STATEMENT: I hereby certify that: (1) the chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1975, and can be reported for the Inventory (40 CFR 710); (2) all information provided on this form is complete and accurate; and (3) the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information here reported.

SIGNATURE | DATE (MO.-DAY.YEAR) | NAME & TITLE (TYPE OR PRINT)

(EPA USE ONLY) MID

II. CORPORATE NAME

III. PLANT SITE: NAME & ADDRESS

Name

Address

City State

Zip

IV. PRINCIPAL TECHNICAL CONTACT(S)

FORM NO. C—

V. CHEMICAL SUBSTANCE WHOSE IDENTITY IS CONFIDENTIAL AND/OR CAS REGISTRY NUMBER IS UNKNOWN

A. SPECIFIC CHEMICAL NAME: ☐ CLASS 1 ☐ CLASS 2

B. ACTIVITY: ☐ MANUFACTURE ☐ PROCESS ☐ IMPORT ☐ SITE LIMITED

C. PRODUCTION VOLUME: _____

D. CONFIDENTIALITY CLAIMS:

(1) CHEMICAL IDENTITY ☐

JUSTIFICATION STATEMENTS (OVER) A☐ B☐ C☐

CAS REGISTRY NUMBER (IF KNOWN) _____

PROPOSED GENERIC NAME _____

CONFIDENTIALITY CLAIMS	✓	EPA USE
(2) MANUFACTURE		
(3) PROCESS		
(4) IMPORT		
(5) SITE LIMITED		
(6) PRODUCTION VOLUME		
(7) CORPORATION		
(8) PLANT SITE		

EPA USE

E. In the space provided below provide structural & supplemental information to aid in the specific identification of the chemical substance:

Molecular Formula (if known)

☐ # OF SHEETS SEE ATTACHED SHEETS (WRITE FORM NO. ON ALL ATTACHMENTS)

EPA NO. _____

CONFIDENTIALITY STATEMENTS
[For Chemical Substance Inventory Report Form C]

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims" or the box entitled "Chemical Identity."

1. By checking the box entitled "Chemical Identity," I assert that the chemical identity of this chemical substance is confidential for one or more the of the following reasons (as indicated by a check by the appropriate statement or statements):

A. ☐ This chemical substance is known to exist; however, no one knows that this chemical substance is being manufactured, imported, or processed for commercial purposes. If our competitors knew that this chemical substance is being manufactured, imported, or processed for commercial purposes, it would show them that the chemical substance has commercial potential and might lead them into research concerning its use. No one knows that this chemical substance has commercial possibilities except us to the best of our knowledge.

B. ☐ This chemical substance is known to exist; however, no one knows that this chemical substance is being manufactured, imported, or processed for commercial purposes. If our competitors knew that this substance is being manufactured, imported, or processed for commercial purposes, they would immediately conclude that we had reported it. The fact that we manufacture, import, or process this chemical substance for commercial purposes is confidential.

C. ☐ This chemical substance is not known to exist. If our competitors knew that this chemical substance does exist and that it is manufactured, imported, or processed for commercial purposes, it would show them that the chemical substance has commercial potential and might lead them into research concerning its use. No one knows that this chemical substance has commercial possibilities except us to the best of our knowledge.

2. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III site for commercial purposes is confidential.

3. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

4. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.

5. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

6. By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

7. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block III is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

8. By checking box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" or the box entitled "Chemical Identity" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

U.S. Environmental Protection Agency
Voluntary Product Trademark Report
(In conjunction with the Toxic Substances Control Act
Chemical Substance Inventory Reporting)

Instructions
Form D: Product Trademarks

Form D may be used by manufacturers and importers of trademarked products to report their product trademarks. If such products contain chemical substances which are permitted to be reported for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Chemical Substance Inventory by the inventory reporting regulations (40 CFR 710), the manufacturer or importer must certify that those chemical substances have been reported. Form D may not be used to report chemical substances. Chemical substances must be reported using Chemical Substance Inventory Report Forms A, B, or C, whichever is applicable.

From reports voluntarily submitted using Form D, EPA will compile and publish a Product Trademark List in conjunction with the TSCA Chemical Substance Inventory. The list will serve primarily two purposes. First, it will allow manufacturers and importers of trademarked products to assure customers that all reportable chemical substances contained in their products appear in the TSCA Chemical Substance Inventory. Second, processors and users, who may add chemical substances to the Inventory during a special 120-day reporting period following its publication, will be able to consult both the Inventory and the Product Trademark List to determine if the chemical substances they process or use have been reported.

Before completing this form, carefully read the inventory reporting regulations as published final in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box ____
Columbus, Ohio 43210

EPA will acknowledge receipt of the form to the addressee identified in block II of the form.

TYPE OR USE A BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. By signing the statement, you certify for each product trademark listed in block IV that all chemical substances permitted to be reported under the Toxic Substances Control Act Section 8(b) inventory reporting regulation (40 CFR 710) which comprise that trademarked product have been reported by someone for inclusion on the Chemical Substance Inventory.

BLOCK II. CORPORATE NAME AND ADDRESS:

Enter the complete name and address of the domestic corporation which manufactures or imports the trademarked products. For unincorporated entities, enter the company name and address.

BLOCK III. PRINCIPAL TECHNICAL CONTACT(S):

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form.

BLOCK IV. PRODUCT TRADEMARKS:

List the trademarks for products which you manufacture or import. Trademarks which cover a line of products may be listed in aggregated form if the certification statement is true for all products within that line.

OMB NO. _____

U.S. ENVIRONMENTAL PROTECTION AGENCY
VOLUNTARY PRODUCT TRADEMARK REPORT
(In conjunction with the Toxic Substances Control Act Chemical Substance Inventory reporting)

FORM D

I. CERTIFICATION STATEMENT: I hereby certify that each trademark listed below identifies a product which I manufacture or import and that all component chemical substances that are permitted to be reported for the inventory (40 CFR 710) have been reported. I agree to permit access to, and the copying of, records, by a duly authorized representative of the EPA Administrator to document any information here reported.

(EPA USE ONLY) MID	SIGNATURE	DATE (MO., DAY, YEAR)	NAME & TITLE (TYPE OR PRINT)

FORM NO. D-1

II. CORPORATION: NAME & ADDRESS

Name

Address

City State

Zip

III. PRINCIPAL TECHNICAL CONTACT(S)

IV. PRODUCT TRADEMARKS

No.	PRODUCT TRADEMARKS	No.	No.	PRODUCT TRADEMARKS	No.
1		1	29		29
2		2	30		30
3		3	31		31
4		4	32		32
5		5	33		33
6		6	34		34
7		7	35		35
8		8	36		36
9		9	37		37
10		10	38		38
11		11	39		39
12		12	40		40
13		13	41		41
14		14	42		42
15		15	43		43
16		16	44		44
17		17	45		45
18		18	46		46
19		19	47		47
20		20	48		48
21		21	49		49
22		22	50		50
23		23	51		51
24		24	52		52
25		25	53		53
26		26	54		54
27		27	55		55
28		28	56		56

EPA NO. _____

[FR Doc.77-28738 Filed 9-30-77;8:45 am]

federal register

MONDAY, OCTOBER 3, 1977

PART VI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

VOCATIONAL EDUCATION, STATE PROGRAMS AND COMMISSIONER'S DISCRETIONARY PROGRAMS

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

STATE ADMINISTERED PROGRAMS AND COMMISSIONER'S DISCRETIONARY PROGRAMS

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: These regulations implement the Vocational Education Act of 1963 as completely revised by the Education Amendments of 1976. The regulations cover both the State administered programs and the Commissioner's discretionary programs. Generally, the regulations are designed to assist States to improve planning in the use of all resources for vocational education and to overcome sex discrimination in vocational education. Also, the regulations permit consolidation of programs to provide greater flexibility to the States in conducting vocational education programs.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with their publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Ms. Juliette Lester, Chair of the Regulations Task Force, Bureau of Occupational and Adult Education, Room 5002, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202 (202-245-3465).

SUPPLEMENTARY INFORMATION:

RULEMAKING HISTORY

The Office of Education has been vitally concerned about the need for intensive public participation in the development of these regulations because of the substantial impact Pub. L. 94-482 will have on the administration and operation of vocational education programs throughout the nation. The major steps and activities involved in carrying out these public participation objectives are set forth below.

After the Act was passed the Commissioner published in the FEDERAL REGISTER (41 FR 49742) a Notice of Intent to Issue Regulations (NOI) on November 10, 1976. This NOI contained a comprehensive overview of the Act and set forth fifteen substantive issues needing clarification in the regulations. After publication of the NOI, a 65-day comment period followed, during which public comment was solicited. Between November 22, 1976 and January 15, 1977, public meetings were held in each State to discuss the issues raised in the NOI and any other relevant issues. Approximately 6,000 people attended these 66 meetings. Also, during this 65-day comment period, over 600 letters and telephone calls were received in response to the NOI from a wide variety of commenters. At the end of this initial comment period, all comments and suggestions received were analyzed and the proposed regulations were drafted to reflect this public participation.

The Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER at 42 FR 18542 on April 7, 1977. In addition to the proposed regulations, the NPRM also contained in the preamble an overview of the regulations. A 30-day comment period followed publication of the NPRM. A press release from the Office of Education was sent to approximately 450 local organizations and newspapers announcing the publication of the NPRM and the schedule for the public meetings. Public meetings were conducted in the ten HEW regional cities from April 20 through April 29. Letters of invitation were sent to approximately 10,000 individuals and organizations. Educators, administrators, consumers of the program, and members of the general public attended these meetings and presented formal statements. In addition, almost 700 letters were received containing comments, criticisms, recommendations, and questions on nearly every section of the proposed regulations. These comments came from diverse groups and individuals, including State and local educators and administrators, women's groups, and a large number of vocational students and teachers. This massive amount of public input was analyzed during the development of the final regulations. A summary of the comments received and the responses to these comments are set forth in this preamble.

Although the final regulations have been significantly affected by intense public involvement, the Office of Education sees the development of regulations implementing the Vocational Education Act as being an evolutionary process which will continue over a period of several years. The actual impact and consequences of the statutory provisions and problems which States and local educational agencies may have in implementing these provisions are not known at the present time. Therefore, the public is encouraged to continue to submit their views on these regulations, and the Office of Education will amend and revise the regulations in the future as need and experience dictate.

OVERVIEW OF THE REGULATIONS

PART 104—STATE ADMINISTERED PROGRAMS

STATE ADMINISTRATION

Any State which desires to receive funds under the Act must designate a State board to be the sole State agency responsible for the administration of programs under the Act (§ 104.31). This board may delegate any of its responsibilities (§ 104.33) except those listed in § 104.32 (a) to (d). The State must also assign full-time personnel to assist in reducing sex discrimination and sex stereotyping in vocational education programs and activities throughout the State (§ 104.72). Each State is to expend $50,000 from the basic grant for this purpose (§ 104.74).

Each State must establish a State advisory council representing at least 20 designated interests (§ 104.92). There must be an appropriate representation by sex, race, ethnicity, and geography on the council to effectively reflect the diverse interests and needs of the general public (§ 104.92(b)). The functions and responsibilities of the State advisory council are expanded to include identifying manpower as well as vocational needs, commenting on the reports of the State Manpower Services Council, and providing technical assistance to local advisory councils (§ 104.93). The expenditure of funds made available to the council is to be determined solely by the council for carrying out its functions (§ 104.96).

Each local educational agency (LEA) and postsecondary institution receiving Vocational Education Act (VEA) funds through the State board must establish a local advisory council composed of members of the general public to provide advice on job needs and relevancy of courses to those needs (§ 104.111).

Each State must also establish a State Occupational Information Coordinating Committee (SOICC) (§ 104.122). This SOICC must implement an occupational information system in the State which will meet the common needs for the planning for, and operation of, programs of the State board and of the administering agencies under the Comprehensive Employment and Training Act (§ 104.123).

PLANNING

To be eligible to receive funds, a State must maintain on file with the Commissioner a general application containing twelve assurances covering a broad range of administrative and fiscal matters (§ 104.141). This application includes the assurance that the State will give priority, in distributing funds, to (1) economically depressed areas and areas with high unemployment rates which are unable to meet the vocational needs of these areas without Federal assistance, and to (2) programs which are new to the areas to be served and which meet new and emerging manpower needs. The State must also use as the two most important factors in distributing funds to local educational agencies (1) the relative financial ability to provide needed services and (2) the relative concentration of low-income populations within such agencies. In the case of other eligible recipients, the State must use, as the two most important factors, the recipient's relative financial ability to provide needed services and the relative concentration of students it serves who impose

higher than average costs (e.g. handicapped, disadvantaged, those with limited English-speaking ability).

The State must submit to the Commissioner a five-year State plan by July 1, 1977 for fiscal years 1978 through 1982 and a second five-year State plan on July 1, 1982 for fiscal years 1983 through 1987 (§ 104.161).

In formulating the plan, the State board is to involve actively a representative of the State agencies for secondary education, postsecondary vocational education, community and junior colleges, and institutions of higher education. The State board must also involve representatives from local school boards, vocational teachers, local school administrators, the State Manpower Services Council, the State agency for Comprehensive Postsecondary Education Planning, and the State advisory council (§ 104.162). The State board and these designated representatives must meet at least four times during the planning year (§ 104.163). If these representatives are not able to agree on the contents of the State plan, the State board is responsible for reaching a final decision (§ 104.164). In this event, the State board must include in the plan the recommendations rejected by the State board and the reason for each rejection. Any dissatisfied agency may appeal the State board's decision to the Commissioner (§ 104.281). The Commissioner will then decide whether that State plan is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act (§ 104.288).

The five-year State plan must contain the procedures for carrying out certain assurances of the general application (§ 104.182) and the specific program provisions described in § 104.183 through § 104.188. These provisions include an assessment of employment opportunities in the State (§ 104.183), the goals the State will seek to meet employment needs (§ 104.184), the planned funding to meet employment needs (§ 104.185), the intended uses of funds to meet specific program needs (§ 104.186), the policies adopted by the State to eradicate sex discrimination (§ 104.187), and a description of the mechanism established for coordination between manpower training programs and vocational education programs (§ 104.188).

The planning process also includes the submission of an annual program plan (§ 104.202) and annual accountability report (§ 104.203). The procedural requirements for developing the five-year plan are also applicable to the annual plan and accountability report but the number of required planning meetings is reduced to three (§ 104.205).

Even though the annual plan is essentially an updating of the five-year plan, it must contain the proposed distribution of funds among eligible recipients. The additional requirements of the annual plan are described in §§ 104.221 and 104.222. The content of the annual accountability report is described in § 104.241.

FISCAL REQUIREMENTS

Federal VEA funds must be used to share only in expenditures which are made in accordance with the assurances of the general application, five-year State plan and annual program plan (§ 104.301). The Federal share of expenditures under the five-year State plan and annual program plan may not exceed 50 percent of the cost of carrying out the programs (§ 104.302).

The fiscal requirements for allowable expenditures for the national priority programs are described in § 104.304. At least 10 percent of the State's allotment under section 102(a) of the Act is to be used to pay up to 50 percent of the costs of special programs, services, and activities for the handicapped (§ 104.312); at least 20 percent of the State's allotment under section 102(a) of the Act is to be used to pay up to 50 percent of the costs of special programs, services, and activities for the disadvantaged, for persons with limited English-speaking ability and for stipends for students with acute economic needs which cannot be met under other programs (§ 104.313); and at least 15 percent to pay up to 50 percent of the cost of postsecondary and adult programs, services, and activities (§ 104.314). The percentage of the 20 percent set-aside which goes to persons with limited English-speaking ability is equivalent to the proportion such persons age 15–24 are to the entire population of the State in the same age bracket (§ 104.313).

The Federal share for State administration of the five-year State plan and annual program plan, from funds allotted to the State under section 102(a) of the Act, is up to 50 percent of the cost of administration of the plans (§ 104.306). The Federal share in fiscal year 1978 is up to 80 percent and in fiscal year 1979 the Federal share is up to 60 percent. The Federal share for the cost of local supervision and administration from funds available under section 102 (a) must be computed in accordance with either of the two methods set forth in § 104.307.

STATE EVALUATION

Each State must evaluate the effectiveness of each funded program within a five-year period (§ 104.402). These evaluations must be in terms of the planning and operational processes, results of student achievement, results of student employment success and results of additional services that the State provides under the Act of special populations (§104.402). Programs which purport to impart entry level job skills are to be evaluated according to the extent to which program completers and leavers find employment in related occupations and are considered well-trained by their employers (§ 104.404).

BASIC GRANT

Each State shall use its basic grant, which is 80 percent of the funds allotted under section 102(a) of the Act, for the purposes described in § 104.502. These purposes include vocational education programs, work-study programs, cooperative vocational progams, energy education programs, construction of area vocational education facilities, support of full-time personnel to eliminate sex bias, stipends for students who have acute economic needs which cannot be met by other programs, placement services for students whose needs cannot be met by other programs, industrial arts programs, support services for women who enter programs designed to prepare individuals for programs traditionally limited to men, day care services for children of persons enrolled in vocational schools, construction and operation of residential vocational schools, provision of vocational training through arrangements with private vocational training institutions and State and local administration. The scope and specific program requirements of each purpose are set forth in §§ 104.511 through 104.634. This extensive list of programs, activities, and services has been consolidated into a single basic grant to allow the States to determine their own priorities for funding.

PROGRAM IMPROVEMENT AND SUPPORTIVE SERVICES

The State must use 20 percent of its allotment under section 102(a) of the Act for Subpart 3—program improvement and supportive services (§ 104.701). Under program improvement and supportive services, funds may be used for research programs (§ 104.705), exemplary and innovative programs (§ 104.706), and curriculum development programs (§ 104.708). These programs are to be operated by research coordinating units (RCU) or are to be conducted by contracts awarded by the RCU (§ 104.703). The State must develop a comprehensive plan of program improvement which includes the intended uses of funds and a description of the State's priorities. The pertinent contract requirements for research programs and for curriculum programs are described in § 104.704. Exemplary and innovative programs must give priority to reducing sex bias and sex stereotyping in vocational education (§ 104.706).

Not less than 20 percent of the funds reserved for program improvement and supportive services are to be used for guidance and counseling services which may include initiation and improvement of counseling services, counseling leading to greater understanding of educational and vocational options, provision of placement and follow-up services for vocational students and individuals preparing for occupations requiring a baccalaureate or higher degree, training to help overcome sex-biased counseling, counseling in correctional institutions, counseling for persons of limited English-speaking ability, resource centers for out-of-school individuals, and leadership for guidance and counseling personnel (§ 104.763).

The State may also use part of the funds reserved for program improvement and supportive services for vocational education personnel training (§ 104.771). Training may be provided to

persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel (§ 104.773).

Funds under program improvement and supportive services may also be used for grants to overcome sex bias and sex stereotyping (§ 104.791). The purpose of these grants is to support activities which show promise of overcoming sex bias and sex stereotyping in vocational education and may be in the areas of research, curriculum development, or guidance and counseling (§ 104.793).

The State may also use part of the funds reserved for program improvement and support services for State and local administration (§§ 104.306 and 104.307).

SPECIAL PROGRAMS FOR THE DISADVANTAGED

Each State must use the funds allotted to it from the authorization under section 102(b) of the Act for special programs of vocational education for disadvantaged persons in areas of high youth unemployment or school dropouts (§ 104.802). The criteria of need and eligibility for disadvantaged persons are described in § 104.804. These projects for the disadvantaged may receive up to 100 percent Federal support (§ 104.802).

CONSUMER AND HOMEMAKING

The State must also use the funds allotted to it from the authorization under section 102(c) of the Act for programs of consumer and homemaking education (§ 104.901). The Federal share is 50 percent except in economically depressed areas where the Federal share is 90 percent (§ 104.906). One-third of the separate authorization is for economically depressed areas. Grants may be used for (1) educational programs that encourage males and females to prepare for combining homemaking and wage earning roles, develop curriculum materials which encourage elimination of sex stereotyping, give greater consideration to needs in economically depressed areas, encourage outreach programs, prepare persons for the homemaker role, emphasize consumer, nutrition, and parenthood education (§ 104.904) and (2) for ancillary services (§ 104.905).

An appendix containing definitions is added at the end of Part 105.

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS

PROGRAM IMPROVEMENT

Under this subpart the Commissioner is authorized to support projects of national significance for improvement of vocational education primarily through contracts and, in some cases, through grants (§ 105.101). The Commissioner may fund up to 100 percent of the cost of the following types of activities if they are found to be of national significance: (a) Research projects; (b) exemplary and innovative projects; (c) vocational curriculum development projects; (d) vocational guidance and counseling programs; (e) vocational education personnel training programs; and (f) grants to assist in overcoming sex bias and sex stereotyping (§ 105.104).

A grant applicant must be able to demonstrate a reasonable probability that the project will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date. Exemplary and innovative projects must provide for appropriate participation by nonprofit private school children (§ 105.109). Activities funded shall include contracts to convert job preparation curriculums prepared for use by the armed services to curriculums usable by the schools (§ 105.103).

CONTRACT PROGRAM FOR INDIAN TRIBES

The Commissioner will enter into contracts with Indian tribal organizations at the request of Indian tribes to plan, conduct, and administer programs which are consistent with the Act and regulations (§ 105.201). The sections of the Indian Self-Determination and Education Assistance Act of 1975 which are applicable are set forth in § 105.202. The criteria for the selection of award recipients are in § 105.211. Additional factors for declining to enter into a contract are listed in § 105.212.

TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

The Commissioner is to provide opportunities for full-time advanced study of vocational education, opportunities for certified teachers in other fields to become vocational education teachers, and opportunities for persons in industry with skills in fields for which there is a need for vocational educators to be so trained (§§ 105.302 and 105.431). Persons having two years of experience in vocational education or in comparable types of situations and who have a baccalaureate degree may receive awards for use at the graduate level, in approved institutions of higher education (§ 105.304). Persons certified to teach in any field who have applicable vocational skills or persons employed in industry with similar skills may receive awards for use in approved teacher-training institutions (§ 105.311). The criteria for approving applications for leadership development awards are in § 105.309. The criteria for approving applications for certification fellowships are in § 105.443.

EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATING OF VOCATIONAL EDUCATION FACILITIES

The Commissioner will make grants to urban and rural local educational agencies which are unable to provide vocational programs to meet existing manpower needs because of the obsolescence of their facilities or equipment (§ 105.501). Grants may be used to support 75 percent of the cost of modernizing such facilities (100 percent in cases of extreme need) and the cost of changes necessary to comply with the Architectural Barriers Act (§ 105.506). The criteria for approving applications are set forth in § 105.505.

BILINGUAL VOCATIONAL TRAINING

The Commissioner will make grants to support bilingual vocational training programs (§ 105.601), bilingual vocational instructor training programs (§ 105.611), and programs for the development of bilingual instructional materials (§ 105.621). The criteria to be used in reviewing applications for these three programs are set forth in §§ 105.606, 105.616, and 105.626 respectively.

TECHNICAL AMENDMENTS

On June 3, 1977, Pub. L. 95-40 was signed into law by the President. This Act makes several technical and miscellaneous amendments to provisions relating to vocational education contained in Title II of the Education Amendments of 1976, Pub. L. 94-482. As a result of the enactment of these Technical Amendments, certain revisions have been made to these final regulations.

In accordance with section 431(b)(2)(A) of the General Education Provisions Act it is the practice of the Office of Education to provide an opportunity for interested parties to take part in its rulemaking process. However, a separate rulemaking procedure on these revisions to the regulations is unnecessary because these revisions to the regulations conform to the language of the Technical Amendments.

Furthermore, a separate rulemaking procedure on the revisions to the regulations would be contrary to the public interest because it would prolong the effective date of the regulations and cause undue delay in the implementation of the vocational education State-administered program. Since the five year State plan and annual program plan are to be effective as of October 1, 1977, it is necessary to have the publication of final regulations at this time.

The amendments contained in Pub. L. 95-40, other than those merely typographical, are briefly summarized in the following paragraphs. (The numbered paragraphs do not correspond to the sequential order of the Technical Amendments.) In each instance in which a conforming change is made in the regulation, a citation to the regulation is given.

1. Use of Federal funds for State administration is deleted from the authorization of section 102(d) and is made an allowable use of funds under the authorization of section 102(a). This amendment has the effect of removing the $25 million limitation on use of Federal funds for State administration which was contained in section 102(d). Instead, the State now has the fexibility to use whatever amount of Federal funds is necessary for prudent State administration of vocational programs. Federal funds used for State administration, however, must be expended in accordance with the State plan and the matching requirements of section 111(a)(2). In addition, Federal funds used for State administration must be prorated between the amount available for basic grants in subpart 2 (80 percent) and program improvement and support services in sub-

part 3 (20 percent). Although this division will prevent administrative expenses from being disproportionately charged against a single program activity, it is not required that administrative personnel be distributed in an 80/20 ratio between subpart 2 and subpart 3 activities. Rather, the State may distribute its administrative personnel in whatever proportion best meets its needs. Section 104.306 of the NPRM is rewritten to conform to these changes in the Act.

(2) Pub. L. 95-40 permits local administrative and supervisory costs to be paid out of the State's allotment under section 102(a). Federal funds used for local administration must also be prorated between subpart 2 (80 percent) and subpart 3 (20 percent).

Section 111(a)(1)(C) sets forth two methods for computing the Federal share. In the first case, the percentage of Federal funds used by an eligible recipient for the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the total vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is $100,000 and the Federal contribution to this eligible recipient is $25,000 or 25 percent of the total. If local administrative costs are $10,000, then up to 25 percent of this amount or $2,500 may be charged against the Federal funds.

The second method allows up to 50 percent of the costs of supervision and administration to be charged to Federal funds provided that State funds match Federal funds dollar for dollar. State funds used to match Federal funds must be specifically made available for the purpose of local administration. For example, if the total cost of local administration is $10,000, then up to $5,000 may be charged to Federal funds as long as the State contributes the same amount from a specific State appropriation.

Both methods for computing local administrative costs are contained in a new regulation, § 104.307.

(3) Section 110 of the Act is amended to allow for the cost of all programs, services, and activities listed in subpart 2 (section 120) and subpart 3 (section 130) to be applied against the minimum percentages for the national priority programs (i.e. handicapped, disadvantaged, and postsecondary). Previously, the cost of vocational education programs as defined in section 195 was the only allowable use of funds to meet the section 110 minimum percentage requirement. In addition, the amendments remove an ambiguity in the Act by applying the three minimum percentages for the national priority programs directly against the section 102(a) authorization. Sections 104.303 and 104.304 are revised to conform to these statutory changes.

(4) Section 120 of the Act is amended to authorize the use of Federal funds for vocational training through private vocational training institutions. Arrangements may be made with these institutions if they can make a significant contribution to attaining the objectives of the State plan, and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions. The definition of "private vocational training institutions" is added to section 195 of the Act. Sections 104.502 and 104.514 are amended accordingly. The new definition is added to Appendix A to these regulations.

(5) Sections 132 and 133 of the Act are amended to clarify that the State's research coordinating unit shall be responsible for coordinating exemplary and innovative programs (section 132) and curriculum programs (section 133) as well as research programs in section 131.

(6) Substantive changes are made to the section 103(a)(1)(B) responsibilities for the Bureau of Indian Affairs (BIA). First, the amendments require BIA, beginning in fiscal year 1979, to expend an amount which is equal to the amount available to the Commissioner for the Indian contract program for vocational education programs, services, and activities. BIA must expend not less than the amount expended during the prior year on these programs. In addition, the Commissioner of Education and the Commissioner of Indian Affairs will jointly prepare a plan for the expenditure of the funds and for the evaluation of programs assisted under this part. The Commissioner (OE) will assume responsibility for the administration of the program with the assistance and consultation of the Bureau of Indian Affairs. BIA is no longer deemed a State board. Accordingly, the reference in § 105.214 in the NPRM to BIA being deemed a State board is deleted.

(7) The Technical Amendments amend the eligibility provision for Indian tribes to participate in the contract program. Section 103(a)(1)(B) extends the authority of the Commissioner to contract for vocational programs with any Indian tribe which is eligible to contract for administration of programs under the Indian Self-Determination Act, rather than just those tribes which have actually contracted under that Act. The corresponding change is made to § 105.205.

(8) The Amendments include the Northern Mariana Islands as a State for the purpose of the Vocational Education Act and also include the Northern Mariana Islands with the other outlying areas for determination of allotment ratios under the Act.

(9) Section 105(d)(4)(A) is amended to require State advisory councils on vocational education to assess the extent to which special education programs as well as vocational education and manpower programs are meeting the needs of the State. Section 104.93(f) of the regulations is amended to reflect this additional responsibility in relation to special education.

(10) Section 105(f)(1) is amended to require that appropriations for the State advisory councils are to be allocated under the allotment method contained in section 103(a)(2).

(11) The Technical Amendments correct an error in section 111(a)(1)(C) which contains the authority for 100 percent Federal funding. Former references to sections 122(f), 133(b) and 140 are deleted and references to sections 122(f), 132(b) and 140(b)(2) are inserted. The result is that cooperative vocational education programs, exemplary programs, and special programs for the disadvantaged, when they include students from nonprofit private schools, may be supported with up to 100 percent Federal funding. Section 104.305 of the regulations conforms to these amendments.

(12) Section 111(a) of the Act is amended by adding a new subparagraph (3) to clarify the Commissioner's authority to pay, from the amount available to each State under the section 102(d) allotment, an amount up to 100 percent of the cost of planning and evaluation activities authorized under section 102(d).

(13) The section 111(a)(2)(B) provision which allows the Federal share of State administration in fiscal year 1978 to be in excess of 80 percent if the State has over matched the Federal funds by ten to one is amended. The determination year is changed from fiscal year 1977 to the latest fiscal year for which reliable data are available. Section 104.306(c) of the regulations conforms to this amendment.

(14) The noncommingling requirement in the cooperative vocational education program (section 122(g)) is amended in order to clarify that the noncommingling requirement applies only to those funds used for programs involving students in nonprofit private schools. Subsection (e) of the new § 104.533 prohibits the commingling of Federal, State, and local funds for programs which include students enrolled in nonprofit private schools.

(15) The clerical error in the language of section 134(a) concerning the use of funds for the eight guidance and counseling activities is corrected. Whereas the provision previously appeared to require section 134 funds to be used for all eight activities, the correction makes it clear that funding shall be for one or more of these activities.

(16) Section 161(a)(3)(A) is amended by delaying for one year the date the national vocational education data reporting and accounting system is to be in full operation.

(17) The implementation date for the occupational information data system in section 161(b)(1) is delayed for one year to September 30, 1978.

(18) Two changes are made to the section 162 authority governing the National Advisory Council on Vocational Education. First, this section restores the authority to the Council to accept gifts if the acceptance of such gifts will better enable the Council to carry out its func-

tions. Secondly, the section makes clear that the Council is to review special education programs as well as vocational education and manpower programs.

(19) The statutory definition of "handicapped" is amended to conform the definition to that used in the Education of the Handicapped Act. Persons with specific learning disabilities are now included under the definition. Also, the term "orthopedically impaired" is substituted for the term "crippled." Corresponding changes are made to the definition of "handicapped" in Appendix A of the regulations.

(20) Pub. L. 95-40 also amends section 107(b)(4) of the Comprehensive Employment and Training Act of 1973 (CETA). The amendment requires the National Commission on Manpower Policy and the State Manpower Services Councils to review the extent to which special education programs as well as vocational education and manpower programs represent a coordinated approach to the employment and training and vocational education needs of the nation.

(21) Finally, Pub. L. 95-40 makes certain amendments to section 523 of the Education Amendments of 1976. The amendments delay for one year the final submission of the reports by the National Institute of Education and makes the report on consumer and homemaking education submittable on the same date as the report on the regular vocational education program. Also, beginning in fiscal year 1978 the full sum of the reservation of funds in this section will be made available to the National Institute of Education for its studies.

CRITICAL ISSUES

Many comments were submitted on many sections of the proposed regulations. These comments and the responses are set forth following the text of the regulations. Some of the comments raised critical policy issues with respect to the interpretation and implementation of the Act. The critical issues are briefly summarized in the following paragraphs.

1. FUNDING FORMULA FOR THE LIMITED ENGLISH-SPEAKING ABILITY POPULATION

Section 110(b)(2) of the Act requires each State to compute the amount of funds for persons with limited English-speaking ability from the "funds used by a State pursuant to section 110(b)(1)." Section 110(b)(1) directs the State to use at least 20 percent of the allotment under section 102(a) for the cost of vocational education for disadvantaged persons, for persons of limited English-speaking ability and for stipends.

The interpretation contained in the NPRM was for the State to apply the percentage of persons of limited English-speaking ability to the amount of the set-aside. For example, if the limited English-speaking population of the State is 10 percent, then 10 percent of the 20-percent set-aside (2 percent of the section 102(a) allotment) would be earmarked for persons of limited English-speaking ability.

Another legally supportable interpretation which would result in a significant change in the method by which Federal funds are distributed by the States to disadvantaged persons was given serious consideration by the Commissioner during the comment period. Under this interpretation, the State would apply the percentage of persons of limited English-speaking ability to the entire allotment under section 102(a), but such amount could not exceed the total amount reserved for the section 110(b)(1) set-aside. In accordance with this interpretation, if the limited English-speaking population of the State is 10 percent, then 10 percent of the entire allotment (rather than 10 percent of the set-aside) would be earmarked for the limited English-speaking population.

Since the Act is susceptible of two interpretations, the Commissioner has decided to retain the interpretation contained in the NPRM, set forth in § 104.313(c). The Commissioner believes that the adoption of the latter interpretation would place drastic limitations on funds available for other disadvantaged students' needs and would substantially undermine many on-going vocational education programs for disadvantaged persons.

2. EXCESS COSTS OF VOCATIONAL EDUCATION PROGRAMS FOR HANDICAPPED AND DISADVANTAGED PERSONS

Section 110(a) of the Act requires each State to expend at least 10 percent of its allotment under section 102(a) for the "cost of vocational education for handicapped persons." Section 110(b) requires at least 20 percent of the allotment under section 102(a) to be expended for the "cost of vocational education for disadvantaged persons * * *."

The statutory language "cost of vocational education," in sections 110(a) and 110(b) was interpreted in the NPRM to mean "full cost." It was stated in the preamble at 42 FR 18549 that, as long as the State complies with the matching requirements in section 110 of the Act, the State could use the combined Federal, State, and local funds to pay the entire cost of the vocational education program for handicapped and disadvantaged persons. In other words, Federal funds for vocational education programs for handicapped and disadvantaged persons were not limited solely to the cost of special services needed by the handicapped and disadvantaged.

Many commenters believed that the interpretation contained in the NPRM was a serious misreading of Congressional intent. According to these commenters, unless the Federal and matching State and local funds were used to pay the excess costs of necessary program modifications, supplementary services or special programs for handicapped and disadvantaged persons, funds available to accommodate these special populations would be greatly reduced. These commenters suggested that the statutory language "cost of vocational education" must be read in the context of the definitions of "handicapped" and disadvantaged" which emphasize the special services which are needed to enable handicapped and disadvantaged persons to take full advantage of the vocational education program.

The Commissioner agrees that paragraphs (a) and (b) of section 110 are susceptible of the interpretation proffered by these commenters. Since a reduction in services for handicapped and disadvantaged persons might result by charging the full cost of the vocational education program against the required minimum, the comments in support of charging the excess costs are accepted. Accordingly, § 104.303 of the regulations is amended to require the Federal and matching State and local funds to be used to pay only the "excess costs" (that is, the costs of special education and related services above the costs of the regular students) of the programs for the handicapped and disadvantaged. For example, if the cost of providing vocational training to the non-handicapped student is $600, and the cost of providing vocational training to the handicapped student in the same class is $750, the State may use the combined Federal, State, and local funds to pay only the incremental cost of $150 for the vocational education program for the handicapped student.

Alternatively, if the handicapped or disadvantaged student is placed in a separate program, Federal, State and local funds may only be used to pay those costs which exceed the average per pupil cost for vocational education for non-handicapped or non-disadvantaged students.

3. PROVIDING DATA BY "PROGRAMS" RATHER THAN "COURSES"

Section 104.184(a) of the NPRM contained a requirement that the five-year State plan describe the State's goals in terms of the "programs (courses) and other training opportunities to be offered to meet employment needs." "Program" is defined as a "planned sequence of courses, services, or activities designed to meet an occupational obective." Since the Act uses the term "courses," there has been considerable debate during the development of the regulations over which term, "program," or "course" carries the proper interpretation in line with Congressional intent.

The major difficulty in changing from "programs" to "courses" in the final regulations is that it would create an undue reporting burden on the States and would greatly increase paperwork. Another problem is that "course" has no standard definition throughout the States, while "program" is specifically defined by the Office of Education in Handbook VI, entitled "Standard Terminology for Curriculum and Instruction in Local and State School Systems" (1970), which currently provides for reporting on at least 160 designated programs. Educators are familiar with OE's list of "instructional programs." The definitions are used by all States. Data by "courses" would be very difficult to obtain since all reporting presently is in

terms of "programs." Definitions of "courses" vary from State to State and within a particular State. Since "course" is not a standardized term, aggregation of data would be virtually impossible.

In view of these difficulties, reporting data by programs rather than by courses should provide sufficient detail in the five-year State plan to meet the intent of the law adequately. Accordingly, the text of the final regulation has not been changed.

4. DEFINITIONS OF "ADULT PROGRAM" AND "POSTSECONDARY PROGRAM"

A great many comments were received in relation to the definitions of "adult program" and "postsecondary program" as they appeared in the Appendix to Part 104 in the Notice of Proposed Rulemaking. These comments objected to the definitions on three grounds:

(1) The definitions are not contained in the Act;

(2) They would jeopardize the student's eligibility for a Basic Educational Opportunity Grant (BEOG) or a College Work Study (CWS) grant; and

(3) They would "eliminate" post-high school programs in vocational and technical schools.

While it is true that the definitions, labeled as such, are not in the new Act, the language of the two definitions as set forth in Appendix A is taken directly from section 110(c) of the Act, which requires the State to set aside 15 percent of its basic grant for persons in two categories of programs. While these two categories of persons are not labeled in section 110(c) as "adult" or "postsecondary," they are so labeled in the legislative history of the Act (H. Rept. No. 94–1085, pp. 48–49) which indicates strong Congressional intent that the definitions be used to avoid the "enormous confusion" which has existed in reporting adult and postsecondary programs and that "a majority of the States urged Congress to clarify thse definitions."

Further study has indicated clearly that the definitions of "adult program" and "postsecondary program" will not affect a student's eligibility for a BEOG or CWS grant. Eligibility for grants under those programs is dependent on the Act and regulations for the particular program; they are not affected by definitions in the new Vocational Education Act or the regulations under the Act.

The definitions are intended, as the legislative history makes clear, for reporting (in the annual program plan and accountability report) and not for allocation purposes. Section 110(c) of the new Act, which uses the definitions, requires a set-aside of 15 percent for both categories; it does not require any specific apportionment between the two categories. Since a State may apportion its 15 percent set-aside between adult and postsecondary programs according to its decision as set forth in its State plan, the definitions as used in the Appendix to Part 104 will not "eliminate" any program at the post-high school level in a vocational and technical school. Nor should the definition in any way encourage States to favor post-high school level programs in community or junior colleges (which lead to an associate or other degree) over those in vocational and technical schools (which lead to a certificate). While some commenters suggested that post-high school programs leading to a certificate should be added to the definition of "postsecondary program," the legislative history is clear (H. Rept. No. 94–1085, bottom of page 48 and top of page 49), that such programs are to be considered for reporting purposes as adult programs.

5. EQUAL ACCESS FOR MINORITIES AND WOMEN

With respect to the policies and procedures that assure equal access for minorities and women, the question was posed whether the Office of Education will require more than a simple "we will not discriminate" statement in the five-year State plan.

Section 107(b)(4)(A) of the Act and § 104.187(a) of the regulations require the State to set forth a detailed description of the policies and procedures to assure equal access to programs by women and men. This description must include the specific actions taken to overcome sex discrimination and the incentives adopted to encourage enrollment of both women and men in nontraditional courses. A perfunctory statement in the five-year State plan that "we will not discriminate" will not satisfy this requirement in the Act and regulations.

The issue of equal access for minorities is not specifically addressed in the Vocational Education Act. Federal financial assistance under the Act, however, is subject to the regulations in 45 CFR Part 80 which effectuate the provisions of Title VI of the Civil Rights Act of 1964. These civil rights requirements are referenced in 45 CFR 100b.252 of the General Education Provisions Regulations and have a direct application to the vocational education regulations. In this connection, it is expected that the Office of Civil Rights will review the five-year plan and annual program plan for civil rights compliance, particularly in the program areas serving women, minorities, and the handicapped.

EXPLANATION OF THE DOCUMENT

SELF-CONTAINED DOCUMENT

The regulations are designed as a self-contained document, making it unnecessary to refer constantly to the Act. Accordingly, the regulations repeat all essential requirements of the Act so that the States, local educational agencies, and other eligible recipients under the State administered program (45 CFR Part 104) and all eligible applicants under the Commissioner's discretionary programs (45 CFR Part 105) may, in general, rely on the regulations without reference to the Act.

Reference to the General Education Provisions Act (GEPA) and the General Education Provisions Regulations (GEPR) will, however, be necessary. In particular, the civil rights requirements referenced in the General Education Provisions Regulations (45 CFR 100a.262 and 45 CFR 100b.262) have a direct application to Part 104 and Part 105. In addition, Federal financial assistance under the Vocational Education Act is subject to the regulations in 45 CFR Part 80 (which effectuate the provisions of Title VI of the Civil Rights Act of 1964), the regulation in 45 CFR Part 84 (which effectuate Section 504 of the Rehabilitation Act of 1973), and to the regulations in 45 CFR Part 86 (which effectuate the provisions of Title IX). Title IX provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. To repeat these civil rights requirements, as well as the requirements of the General Education Provisions Regulations, in Part 104 and Part 105 would defeat the express purpose of the General Education Provisions Regulations, which is to publish in one place regulations which affect the various education programs generally.

TERMINOLOGY

To make reading and understanding of the regulations easier, the new Vocational Education Act is referred to simply as "the Act." Sections of the Act are referred to in the text, for example, as "section 101 of the Act." A section of the regulations is referred to, for example, as "§ 104.101" with use of the section symbol (§). The phrase "of these regulations" is not repeated. Thus a reference to "section 101" should be recognized as a reference to section 101 of the Act; a reference to "§ 104.101" is a reference to § 104.101 of the regulations.

To make the regulations more readable (and at the same time shorter) Acts or regulations which are frequently mentioned are referred to by their acronyms, "CETA," "GEPA," "GEPR," for example. The Department of Health, Education, and Welfare is "HEW." If an acronym is used, it is defined in the definitions or the text.

CITATION TO LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation to the statutory or other legal authority for each provision of the regulations has been placed in parentheses on the line immediately following the text of the regulation. Each citation applies to the text of the regulations between that citation and the next preceding citation.

Citation is to the Vocational Education Act of 1963, as amended by Title II of the Education Amendments of 1976 (Pub. L. 94–482), as further amended by Pub. L. 95–40, unless otherwise noted. Citation to another act refers to the other act by name or other designation. For example, "section 434 of GEPA" is a citation to section 434 of the General Education Provisions Act. Citation to the United States Code, for example "(20 U.S.C. 2301)," generally follows a citation to a section of the Act.

It is important to note that a citation standing alone means that the regulation closely follows the section of the Act cited, with only minor editorial simplification. Where language is added in the regulation in order to interpret the Act, the citation reads "(Interprets Sec. ____)." Where the regulation implements the Act, such as when criteria are set forth, the citation reads "(Implements Sec. ____)."

INTERNAL FEDERAL MATTERS NOT REGULATED

The requirements of the Act relating to matters of internal Federal administration are not set forth in the regulations. For example, these regulations do not repeat the statutory requirement that the President appoint members of the National Advisory Council on Vocational Education (section 162 of the Act). Likewise, the regulations do not address the following: (a) The establishment and duties of the Bureau of Occupational and Adult Education (section 160 of the Act); (b) the requirement that the Commissioner make findings and suggestions in relation to State plans (section 112(a)(1) of the Act); (c) the requirement that the Bureau of Occupational and Adult Education (BOAE) review and analyze the programs in at least 10 States a year (section 112(a)(2) of the Act); (d) the requirement that the HEW Audit Agency conduct fiscal audits within the same States in which BOAE conducts its reviews (section 112(a)(2) of the Act); (e) the requirement that the Commissioner file an annual report with Congress (section 112(c) of the Act); and (f) the duties of the National Occupational Information Coordinating Committee (section 161(b) of the Act).

To conclude, in general terms, matters of internal Federal administration appearing in the Act under "Federal and State Evaluation" (section 112 of the Act) and "Federal Administration" (sections 160–162 of the Act) are not set forth in the regulations.

The Act provides for appeal to the United States Court of Appeals in several instances, including an appeal from the Commissioner's findings of noncompliance with the State plan (section 109(d)). Since an appeal to the courts is a legal matter to be handled by attorneys, the procedures for appeal set forth in the Act are not repeated in the regulations.

The Commissioner's delegations of authority are not set forth in the regulations. Hence, when the regulations say "the Commissioner" will perform a function, the Commissioner's authority to perform this function may have been delegated to another official in the Office of Education.

Appendix A, containing definitions of terms, is set forth following the text of the regulations for Parts 104 and 105. Appendix B contains questions and answers raised by interested persons with respect to the implementation of the Act. These questions raised important policy considerations and have legal significance. Following Appendix B, the comments, suggestions, and recommendations received during the rulemaking period and the responses to these comments are set forth as supplementary information.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 18, 1977.

JOHN ELLIS,
Acting Commissioner of Education.

Approved: September 26, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Program Nos. 13.493 Vocational Education—Basic Grants; 13.494 Consumer and Homemaking; 13.495 Program Improvement and Supportive Services; 13.498 Program Improvement Projects; 13.499 Special Needs; 13.500 State Advisory Councils; 13.503 Training and Development Awards for Vocational Education Personnel—Leadership Development Awards; 13.558 Bilingual Vocational Training; 13.586 Bilingual Vocational Instructor Training; 13.587 Bilingual Vocational Instructional Materials, Methods, and Techniques; 13.588 Vocational Education Contract Program for Indian Tribes and Indian Organizations; (to be assigned), Training and Development Awards for Vocational Education Personnel—Vocational Education Certification Fellowships.)

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

1. In part 100a, § 100a.10(a)(11) and § 100a.10(a)(26) (relating to programs under the Education Professions Development Act) are amended to read as following:

§ 100a.10 Scope.

(a) * * *

(11) Programs of contracts with Indian tribal organizations under section 103(A)(1)(B), programs of national significance under sections 171 and 172 of subpart 2 of Part B; programs of bilingual vocational training under sections 181–189B of subpart 3 of Part B; and programs of emergency assistance for remodeling and renovation of vocational education facilities under sections 191–194 of Subpart 4 of Part B, of Title I of the Vocational Education Act of 1963, as amended by section 202 of Pub. L. 94–482 (20 U.S.C. 2303(a)(1)(B), 2401, 2402; 2411–2421; 2411–2444).

* * * * *

(26) Teacher Corps and Teacher Training Programs under Title V of the Higher Education Act of 1965, as amended by sections 151–153 of Pub. L. 94–482 (20 U.S.C. 1102–1104, 1119–1119a–1).

* * * * *

PART 100b—STATE ADMINISTERED PROGRAMS

2. In Part 100b, § 100b.10(f) is amended to read as follows:

§ 100b.10 Scope.

* * * * *

(f) State vocational education programs under sections 101–150 of Part A of Title I of the Vocational Education Act of 1963, as amended (20 U.S.C. 2301–2380).

PART 100c—INDIRECT COSTS UNDER CERTAIN PROGRAMS

3. In Part 100c, § 100c.1(f) is amended to read as follows:

§ 100c.1 Scope.

* * * * *

(f) State vocational education programs under sections 101–150 of Part A of Title I of the Vocational Education Act of 1963, as amended (20 U.S.C. 2301–2380).

* * * * *

4. New Parts 104 and 105 are added to read as follows:

PART 104—STATE VOCATIONAL EDUCATION PROGRAMS

Subpart 1—State Administration

Sec.

AUTHORITY: Secs. 101–195 of Title II of Pub. L. 94–482 as further amended by Pub. L. 95–40 (20 U.S.C. 2301 to 2461), unless otherwise noted.

Subpart 1—State Administration

§ 104.1 Scope.

Part 104 contains regulations interpreting or implementing Part A of Title I of the Vocational Education Act of 1963, as amended by Title II of the Education Amendments of 1976, Pub. L. 94–482 (referred to as "the Act").

(Secs. 101 through 150, 195; 20 U.S.C. 2301.)

§ 104.2 Purpose.

(a) The purpose of Part A of the Act, as stated in section 101 of the Act, the "Declaration of Purpose," is to assist States in improving planning in the use of all resources available to the States for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans.

It is also the purpose of this part to authorize Federal grants to States to assist them—

(1) To extend, improve, and, where necessary, maintain existing programs of vocational education,

(2) To develop new programs of vocational education,

(3) To develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

(4) To provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis, so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

(b) The purpose of these regulations is to assist the States, local educational agencies, postsecondary institutions, and other institutions capable of carrying out vocational education programs, to administer the federally assisted State programs of vocational education under the Act.

(Sec. 101; 20 U.S.C. 2301.)

§ 104.3 Applicability of General Education Provisions Regulations.

Provisions in Parts 100, 100b, and 100c of the General Education Provisions Regulations (45 CFR Parts 100, 100b, and 100c), entitled "General Provisions for Office of Education Programs," are applicable to programs under the Act, except for the following sections:

(a) Section 100b.16—Implementation of application procedures;

(b) Section 100b.18—General application;

(c) Section 100b.18—Annual program plan;

(d) Section 100b.19—State plan requirements;

(e) Section 100b.35(b)—Effective dates of application, plans, and amendments;

(f) Section 100b.92(b)—Matching and cost sharing;

(g) Section 100b.93—Valuation of in-kind contributions from third parties; and

(h) Section 100b.94—Supporting records for in-kind contributions from third parties.

(20 U.S.C. 2301 et seq.)

§ 104.4 Cross reference to definitions.

Definitions necessary for the understanding of Parts 104 and 105 are set forth in Part C of Title I of the Act (section 195 of the Act) and as Appendix A at the end of Part 105 or these regulations. Some additional definitions necessary for the understanding of Part 105 appear in Part 105.

(Sec. 195; 20 U.S.C. 2461.)

§ 104.5 Requirements under Part B of the Education of the Handicapped Act.

(a) Regulations under Part B of the Education of the Handicapped Act are located in 45 CFR Part 121a.

(20 U.S.C. 1417(b).)

(b) Section 612(6) of the Education of the Handicapped Act requires that the State educational agency be responsible for ensuring that all educational programs for handicapped children within the State, including all of those programs administered by any other State or local agency, are under the general supervision of persons responsible for educational programs for handicapped children in the State educational agency.

(20 U.S.C. 1412(6).)

(c) Section 613(a)(2) of the Education of the Handicapped Act requires each State to insure that funds provided under this part to assist in the education of handicapped children are used only in a manner consistent with a goal of providing a free appropriate public education for all handicapped children.

(d) Paragraph (c) of this section does not limit the requirements of this Part or the statutes under which this part is authorized.

(20 U.S.C. 1413(a)(2).)

(e) Section 612(6) of the Education of the Handicapped Act requires that any activity to assist the education of handicapped children under this Part shall meet the educational standards of the State educational agency.

(20 U.S.C. 1412(6).)

(f) Section 616(a)(2)(B) of the Education of the Handicapped Act provides that the Commissioner may withhold payments available under this Part for assisting the education of handicapped children:

(1) For failure to comply substantially with any provision of section 612 or 613 of the Education of the Handicapped Act; or

(2) In the administration of the annual program plan under Part B of the Education of the Handicapped Act for failure to comply with:

(i) Any provision of Part B of the Education of the Handicapped Act; or

(ii) Any requirements in the application of a local educational agency or intermediate educational unit approved by the State educational agency under that annual program plan.

(g) The Commissioner will use the notice and hearing procedures in section 616 of the Education of the Handicapped Act before withholding payments under this section.

(20 U.S.C. 1416.)

STATE BOARD

§ 104.31 Establishment of State board.

(a) A State desiring to participate in programs under the Act shall, consistent with State law, designate or establish a

State board or agency which shall be the sole State agency responsible for the administration, or for the supervision of administration, of programs under the Act.

(b) The State board is solely accountable to the Commissioner for the State's expenditure of Federal vocational education funds.

(Sec. 104(a)(1); 20 U.S.C. 2304; Sen. Rept. No. 94-882, p. 72.)

§ 104.32 Responsibilities of the State board.

The responsibilities of the State board include (but are not limited to):

(a) Coordination of the development of policy with respect to programs under the Act (as set forth in §§ 104.162, 104.163, 104.204, and 104.205);

(b) Coordination of the development of the five-year State plan (as set forth in § 104.181), the annual program plan (as set forth in §§ 104.221 and 104.222), and the accountability report (as set forth in § 104.241);

(c) The submission to the Commissioner of the five-year State plan, the annual program plan, and the accountability report; and

(d) Consultation with the State advisory council on vocational education and with other State agencies, councils, and individuals (as set forth in § 104.162).

(Sec. 104(a)(1) (A), (B), and (C); 20 U.S.C. 2304.)

(e) Cooperation with the Administrator of the National Center for Educational Statistics in the development and submission of information required for a national vocational education data reporting and accounting system.

(Sec. 161(a); 20 U.S.C. 2391.)

§ 104.33 Delegation of functions.

The State board may delegate any of its responsibilities (except those responsibilities set forth in § 104.32), in whole or in part, to one or more appropriate agencies.

(Sec. 104(a)(1); 20 U.S.C. 2304.)

§ 104.34 State administration and leadership.

The State board shall provide for a State staff sufficiently qualified by education and experience and in sufficient numbers to enable the State board to carry out its functions under the State plan. The State board staff shall include a full-time State director.

(Implements sec. 104(a)(1) and sec. 106(a)(1).)

Full-Time Personnel and Functions to Eliminate Sex Discrimination and Sex Stereotyping

§ 104.71 Scope.

Sections 104.72 through 104.76 apply only to the fifty States and the District of Columbia. (These sections do not apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Northern Mariana Islands, or the Trust Territory of the Pacific Islands.)

(Sec. 104(b)(3); 20 U.S.C. 2304.)

§ 104.72 Selection of full-time personnel to eliminate sex discrimination and sex stereotyping.

(a) A State desiring to participate in the programs authorized by the Act shall select personnel to work full time to assist the State board in fulfilling the purposes of the Act concerned with:

(1) Furnishing equal educational opportunities in vocational education programs to persons of both sexes; and

(2) Eliminating sex discrimination and sex stereotyping from all vocational education programs.

(Secs. 101(3), 104(b)(1); 20 U.S.C. 2301, 2304.)

(b) In selecting the full-time professional personnel, the State shall match the qualifications of the applicants with the responsibilities of the job.

(Implements Sec. 104(b)(1); 20 U.S.C. 2304.)

§ 104.73 Definitions.

The following definitions apply for the purposes of §§ 104.72 through 104.76 and throughout the Act and regulations.

(a) "Sex bias" means behaviors resulting from the assumption that one sex is superior to the other.

(b) "Sex stereotyping" means attributing behaviors, abilities, interests, values, and roles to a person or group of persons on the basis of their sex.

(c) "Sex discrimination" means any action which limits or denies a person or a group of persons opportunities, privileges, roles, or rewards on the basis of their sex.

(Implements Sec. 104(b); 20 U.S.C. 2304.)

§ 104.74 Funds for full-time personnel and functions.

(a) Each State shall expend not less than $50,000 in each fiscal year from funds available under basic grants (section 120 of the Act) to support the personnel working full time to carry out the functions set forth in § 104.75.

(Secs. 104(b)(2), 120(b)(1)(F); 20 U.S.C. 2304, 2330.)

(b) Funds set aside under paragraph (a) of this section shall be used for:

(1) Salaries for full-time professional staff;

(2) Salaries for support staff; and

(3) Travel and other expenses directly related to the support of personnel in carrying out the functions set forth in § 104.75.

(Implements Sec. 104(b); 20 U.S.C. 2304.)

§ 104.75 Functions of full-time personnel.

Personnel designated under § 104.72 shall work full time to:

(a) Take action necessary to create awareness of programs and activities in vocational education designed to reduce sex bias and sex stereotyping in all vocational education programs, including assisting the State board in publicizing the public hearings on the State plan in accordance with § 104.165(a);

(b) Gather, analyze, and disseminate data on the status of men and women students and employees in vocational education programs of the State;

(c) Develop and support actions to correct problems brought to the attention of this personnel through activities carried out under paragraph (b) and § 104.76, including creating awareness of the Title IX complaint process;

(d) Review the distribution of grants and contracts by the State board to assure that the interests and needs of women are addressed in all projects assisted under this Act;

(e) Review all vocational education programs (including work-study programs, cooperative vocational education programs, apprenticeship programs, and the placement of students who have successfully completed vocational education programs) in the State for sex bias;

(f) Monitor the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;

(g) Assist local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and

(h) Make available to the State board, the State advisory council, the National Advisory Council on Vocational Education, the State Commission on the Status of Women, the Commissioner, and the general public, including individuals and organizations in the State concerned about sex bias in vocational education, information developed under this section;

(Sec. 104(b)(1); 20 U.S.C. 2304.)

(i) Review the self-evaluations required by Title IX; and

(Implements Sec. 104(b)(1); 20 U.S.C. 2304.)

(j) Review and submit recommendations with respect to overcoming sex bias and sex stereotyping in vocational education programs for the five-year State plan and its annual program plan prior to their submission to the Commissioner for approval.

(Secs. 104(b)(1), 109(a)(3)(B); 20 U.S.C. 2304, 2309.)

§ 104.76 Studies to carry out functions.

A State may use funds available under section 130 of the Act to support studies necessary to carry out the functions set forth in § 104.75.

(Implements Sec. 104(b)(1); 20 U.S.C. 2304.)

State Advisory Council

§ 104.91 Establishment and certification.

(a) *Establishment.* A State which desires to receive funds under the Act and the regulations in this part for any fiscal year shall establish a State advisory council. The council shall be appointed

by the Governor or, in a State in which the members of the State board are elected, by the State board itself.

(Sec. 105(a); 20 U.S.C. 2305.)

(b) *Appointment by the State board.* In order for the appointment power to be vested in the State board, under the authority of paragraph (a) of this section, a majority of its members must be individuals elected by the State legislature or directly by the eligible voters of the State or of the districts which the individuals represent.

(Interprets Sec. 105(a); 20 U.S.C. 2305.)

(c) *Certification.* The appointing authority, required by paragraph (a) of this section, shall certify to the Commissioner the establishment and membership of its State advisory council not less than 90 calendar days before the beginning of each fiscal year.

(Sec. 105(b); 20 U.S.C. 2305.)

§ 104.92 Membership.

(a) *Required representation.* The membership of the State advisory council shall include one or more individuals who:

(1) Represent, and are familiar with, the vocational needs and problems of management in the State;

(2) Represent, and are familiar with, the vocational needs and problems of labor in the State;

(3) Represent, and are familiar with, the vocational needs and problems of agriculture in the State;

(4) Represent State industrial and economic development agencies;

(5) Represent community and junior colleges;

(6) Represent other institutions of higher education, area vocational schools, technical institutes, and post-secondary agencies or institutions which provide programs of vocational or technical education and training;

(7) Have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

(8) Represent, and are familiar with, public programs of vocational education in comprehensive secondary schools;

(9) Represent, and are familiar with, nonprofit private schools;

(10) Represent, and are familiar with, vocational guidance and counseling services;

(11) Represent State correctional institutions;

(12) Are vocational education teachers presently teaching in local educational agencies;

(13) Are currently serving as superintendents or other administrators of the local educational agencies;

(14) Are currently serving on local school boards;

(15) Represent the State Manpower Services Council established pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

(16) Represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

(17) Are women with backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training, and employment, and of sex stereotyping in vocational education, including women who are members of minority groups having special knowledge of the problems of discrimination in job training and employment against women in minority groups;

(18) Have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

(19) Represent the general public, including at least one person representing and knowledgeable about the poor and disadvantaged; and

(20) Are vocational education students who are not qualified for membership under any of the preceding clauses of this sentence.

(Sec. 105(a); 20 U.S.C. 2305.)

(b) *Special considerations.* The appointing authority, pursuant to paragraph (a) of this section, shall insure that:

(1) The State advisory council has as a majority of its members persons who are not educators or administrators in the field of education;

(2) Members of the State advisory council do not represent more than one category;

(Sec. 105(a); 20 U.S.C. 2305.)

(3) There is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State. The Commissioner considers the term "appropriate representation" to be representation which generally reflects the percentage of women or minorities in the population of the State or the percentage of women or minorities in the work force of the State.

(Implements Sec. 105(a); 20 U.S.C. 2305.)

(4) In order to avoid any conflict of interest, the membership of the State advisory council excludes members of the State board and members of its staff who are directly involved in State administration of vocational education.

(Implements Sec. 105 (d), (e); 20 U.S.C. 2305.)

(c) *Term of appointment.* Members of the State advisory council shall be appointed for terms of three years except that:

(1) In the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each;

(2) An appointment to fill a vacancy shall be for the term that remains unexpired; and

(Sec. 105(a); 20 U.S.C. 2305.)

(3) Members serving on the State advisory council on October 1, 1977, may continue to serve for the terms for which they were appointed, but for not more than two fiscal years unless reappointed.

(Sec. 204(b); 20 U.S.C. 2301 note.)

§ 104.93 Functions and responsibilities.

The State advisory council shall:

(a) Advise the State board in the development of the five-year State plan submitted under the authority of § 104.181, the annual program plan submitted under the authority of §§ 104.221, and 104.222, and the accountability report submitted under the authority of § 104.241. A statement describing its consultation with the State board shall be submitted with the five-year State plan, and the annual program plan and accountability report under § 104.171(f).

(Sec. 105(d)(1); 20 U.S.C. 2305.)

(b) Advise the State board on policy matters arising out of the administration of programs under the approved five-year State plan, the annual program plan, and the accountability report;

(Sec. 105(d)(1); 20 U.S.C. 2305.)

(c) Evaluate vocational education programs (including programs to overcome sex bias), services, and activities under the annual program plan, and publish and distribute the results thereof;

(Sec. 105(d)(2); 20 U.S.C. 2305.)

(d) Assist the State board in developing plans for State board evaluations under the authority of § 104.401 and monitor these evaluations;

(Sec. 112(b)(2); 20 U.S.C. 2312.)

(e) Prepare and submit through the State board to the Commissioner and to the National Advisory Council an annual evaluation report, accompanied by any additional comments of the State board as the State board deems appropriate;

(Sec. 105(d)(3); 20 U.S.C. 2305.)

(f) Identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting these needs;

(Interprets Sec. 105(d)(4)(A); 20 U.S.C. 2305.)

(g) Comment, at least annually, on the reports of the State Manpower Services Council;

(Sec. 105(d)(4)(B); 20 U.S.C. 2305.)

(h) Prepare and submit to the Commissioner within 60 calendar days after the Commissioner's acceptance of certification of establishment and membership, submitted pursuant to § 104.91(c), an annual budget covering the proposed

expenditures of the State advisory council for the following fiscal year; and

(Implements Sec. 105(f); 20 U.S.C. 2305.)

(i) Provide technical assistance to eligible recipients and local advisory councils as may be requested by the recipients to establish and operate local advisory councils.

(Sec. 105(g); 20 U.S.C. 2305.)

§ 104.94 Meetings and rules.

The State advisory council shall meet within 30 calendar days after certification has been accepted by the Commissioner and shall select from among its membership a chairperson. The time, place, manner of meetings, as well as the councils operating procedures and staffing, shall be as provided by the rules of the State advisory council. The rules shall provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

(Sec. 105(c); 20 U.S.C. 2305.)

§ 104.95 Staff and services.

(a) The State advisory council is authorized:

(1) To obtain the services of professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions described in § 104.93. Such personnel shall not include staff members of the State board and shall be subject only to the supervision and direction of the State advisory council with respect to all services performed by them.

(2) To contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

(Implements sec. 105(e); 20 U.S.C. 2305.)

(b) Members of the State advisory council and its staff, while serving on the business of the council, may receive subsistence, travel allowances, and compensation in accordance with State law, regulations, and practices applicable to persons performing comparable duties and services.

(Implements Sec. 105(e); 20 U.S.C. 2305.)

§ 104.96 Fiscal control.

(a) The State advisory council shall designate an appropriate State agency or other public agency, eligible to receive funds under the Act, to act as its fiscal agent for purposes of disbursement and accounting and for having its accounts audited at least every two years. The fiscal agent shall send a copy of the audit report to the Commissioner.

(Implements Sec. 105(f)(2); 20 U.S.C. 2305.)

(b) The expenditure of council funds is determined solely by the State advisory council for carrying out its function except as provided in § 104.95(b). Council funds may not be diverted or reprogrammed for any other purpose by any State board, agency, or individual.

(Sec. 105(f)(2); 20 U.S.C. 2305.)

(c) All expenditures of council funds shall be in accordance with the budget approved by the Commissioner under the authority of § 104.93(h).

(Implements Sec. 105(f)(2); 20 U.S.C. 2305.)

(d) The State advisory council shall submit to the Commissioner a financial status report within 90 days after the end of the fiscal year.

(45 CFR 100b.403.)

§ 104.97 Annual evaluation report.

The State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council on Vocational Education, through the State board, within 90 days after the end of the fiscal year an annual evaluation report under the authority of § 104.93(e). This report shall include:

(a) The results of the evaluations by the State advisory council of the effectiveness of programs, services, and activities carried out in the year under review in meeting the program goals set forth in the five-year State plan and the annual program plan.

(Sec. 105(d)(3)(A); 20 U.S.C. 2305.)

(b) A review of the program evaluation results developed by the State under the authority of § 104.401;

(c) A review of the analysis of the distribution of Federal funds within the State submitted by the State according to the annual program plan and the accountability report;

(Sec. 105(d)(3)(A); 20 U.S.C. 2305.)

(d) Recommended changes in programs, services, and activities as may be considered necessary by the State advisory council based on the results of its evaluation;

(Sec. 105(d)(3)(B); 20 U.S.C. 2305.)

(e) Comments on the reports of the State Manpower Services Council; and

(Sec. 105(d)(4)(B); 20 U.S.C. 2305.)

(f) Identification of the vocational education and employment and training needs of the State and the assessment of the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this and related Act represent a consistent, integrated, and coordinated approach to meeting such needs.

(Sec. 105(d)(4)(A); 20 U.S.C. 2305.)

LOCAL ADVISORY COUNCILS

§ 104.111 Establishment of local advisory councils.

(a) Each eligible recipient (that is, each local educational agency or postsecondary educational institution which receives Federal assistance under the Act) shall establish a local advisory council on vocational education.

(b) The local advisory council may be established for:

(1) Program areas;

(2) Schools;

(3) The community; or

(4) The region in which the eligible recipient is located.

(c) The local advisory council shall be composed of representatives of the general public including at least a representative of:

(1) Business;

(2) Industry; and

(3) Labor.

(Sec. 105(g)(1); 20 U.S.C. 2305.)

(d) Each eligible recipient shall establish a local advisory council which has an appropriate representation of both sexes and an appropriate representation of the racial and ethnic minorities found in the program areas, schools, community, or region which the local advisory council serves.

(e) An eligible recipient may form a local advisory council composed of representatives from several craft committees, or representatives of several school councils, having the requisite representation in paragraph (c) of this section.

(Implements Sec. 105(g)(1); 20 U.S.C. 2305.)

§ 104.112 Duties of local advisory councils.

(a) The local advisory council shall advise the eligible recipient on:

(1) Current job needs; and

(2) The relevance of programs (courses) being offered by the local educational agency or postsecondary educational agency in meeting current job needs.

(Sec. 105(g)(1); 20 U.S.C. 2305.)

(b) The local advisory council shall consult with the eligible recipient in developing its application to the State board.

(Sec. 106(a)(4)(A); 20 U.S.C. 2306.)

VOCATIONAL EDUCATION INFORMATION DATA SYSTEM

§ 104.116 Vocational education data system.

(a) The Commissioner and the Administrator of NCES will jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system.

(b) This system will include information resulting from the evaluations under section 112(b) of the Act (§§ 104.402 and 104.404) and other information on vocational:

(1) Students (including information on their race and sex);

(2) Programs;

(3) Program completers and leavers;

(4) Staff;

(5) Facilities; and

(6) Expenditures.

(c) This system will be compatible insofar as possible with the occupational information data system developed under section 161(b) of the Act by the National Occupational Information Coordinating Committee and with other in-

formation systems involving data on programs assisted under CETA.

(Interprets 161(a); 20 U.S.C. 2391.)

NATIONAL AND STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEES

§ 104.121 Establishment of National Occupational Information Coordinating Committee.

Section 161(b) of the Act establishes a National Occupational Information Coordinating Committee composed of the Commissioner of Education and the Administrator of the National Center for Education Statistics, from the Department of Health, Education, and Welfare, and the Assistant Secretary of Labor for Employment and Training and the Commissioner of the Bureau of Labor Statistics, from the Department of Labor.

(Sec. 161(b); 20 U.S.C. 2391(b).)

§ 104.122 Requirement to establish State occupational information coordinating committees.

(a) Each State receiving assistance under the Act is required by section 161(b)(2) of the Act to establish a State occupational information coordinating committee by September 30, 1977.

(Implements Sec. 161(b)(2); 20 U.S.C. 2391.)

(b) The State occupational information coordinating committee shall be composed of a representative of each of the following:

(1) The State board;

(2) The State employment security agency;

(3) The State Manpower Services Council; and

(4) The agency administering the vocational rehabilitation program.

(Sec. 161(b)(2); 20 U.S.C. 2391.)

(c) The representatives shall be selected by the respective State board, agency, or council.

(Implements Sec. 161(b)(2); 20 U.S.C. 2391.)

(Implements Secs. 103(a)(1)(A), 161(b)(2); 20 U.S.C. 2302, 2391)

§ 104.123 Duties of the State occupational information coordinating committee.

(a) The State occupational information coordinating committee, with funds available to it from the National Occupational Information Coordinating Committee shall implement an occupational information system in the State which will meet the common needs for the planning for, and operation of, programs of the State board assisted under this Act and of the administering agencies under the Comprehensive Employment Training Act.

(Sec. 161(b)(2); 20 U.S.C. 2391.)

(b) A State occupational information coordinating committee shall use funds received from the National Occupational Information Coordinating Committee in accordance with guidance, direction or standards adopted by the National Occupational Information Coordinating Committee.

(Implements Sec. 161(b)(2); 20 U.S.C. 2391.)

GENERAL APPLICATION

§ 104.141 Requirement for filing a general application.

(a) In order to participate in programs authorized under the Act, the State board for vocational education must submit to, and maintain on file with, the Commissioner a general application.

(Sec. 106(a); 20 U.S.C. 2306.)

(b) This general application must be signed by the executive officer of the State board and submitted by the State board to the Commissioner by July 1, 1977, for eligibility for Federal funds under the Act.

(c) This general application is filed only once with the Commissioner and shall remain in effect until the provisions of section 106 of the Act are changed or expire.

(Implements Sec. 106(a); 20 U.S.C. 2306; Sen. Rept. No. 94-882, pp. 68-72.)

(d) This general application is in lieu of the general application required by section 434(b) of the General Education Provisions Act.

(Sec. 106(b); 20 U.S.C. 2306.)

(e) The procedures to be used by the State board to carry out assurances 4, 5, 9, and 10 in the general application shall be included in the five-year State plan (§ 104.182).

(Implements Sec. 109(a)(1); 20 U.S.C. 2309.)

(f) This general application shall contain the following 12 assurances; of these, ten are set forth in section 106(a) of Act:

(1) that the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act;

(2) that the State board will cooperate with the State advisory council on vocational education in carrying out its duties pursuant to section 105 and with the agencies, councils, and individuals specified in sections 107 and 108 to be involved in the formulation of the five-year State plan and of the annual program plans and accountability reports;

(3) that the State will comply with any requests of the Commissioner for making such reports as the Commissioner may reasonably require to carry out his functions under this Act;

(4) that funds will be distributed to eligible recipients on the basis of annual applications which——

(A) have been developed in consultation (i) with representatives of the educational and training resources available in the area to be served by the applicant and (ii) with the local advisory council required to be established by this Act to assist such recipients,

(B)(i) describe the vocational education needs of potential students in the area or community served by the applicant and indicate how, and to what extent, the program proposed in the application will meet such needs, and (ii) describe how the findings of any evaluations of programs operated by such applicant during previous years, including those required by this Act, have been used to develop the program proposed in the application,

(C) describe how the activities proposed in the application relate to manpower programs conducted in the area by a prime sponsor established under the Comprehensive Employment and Training Act of 1973, if any, to assure a coordinated approach to meeting the vocational education and training needs of the area or community, and

(D) describe the relationship between vocational education programs proposed to be conducted with funds under this Act and other programs in the area or community which are supported by State and local funds;

and that any eligible recipient dissatisfied with final action with respect to any application for funds under this Act shall be given reasonable notice and opportunity for a hearing;

(5)(A) that the State shall, in considering the approval of such applications, give priority to those applicants which—

(i) are located in economically depressed areas and areas with high rates of unemployment, and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance, and

(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and the Nation; and

(B) that the State shall, in determining the amount of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution on economic, social and demographic factors relating to the needs for vocational education among the various populations and the various areas of the State, except that—

(i) the State will use as the two most important factors in determining this distribution (I) in the case of local educational agencies, the relative financial ability of such agencies to provide the resources necessary to meet the need for vocational education in the areas they service and the relative number or concentration of low-income families or individuals within such agencies, and (II) in the case of other eligible recipients, the relative financial ability of such recipients to provide the resources necessary to initiate or maintain vocational education programs to meet the needs of their students and the relative number or concentration of students whom they serve whose education imposes higher than average costs, such as handicapped students, students from low-income families, and students from families in which English is not the dominant language; and

(ii) the State will not allocate such funds among eligible recipients within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any recipient which is making a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs;

(6) that Federal funds made available under this Act will be so used as to supplement, and to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the Act, and in no case supplant such State or local funds;

(7) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to secure proper disbursement of, and accounting for, Federal

funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

(8) that funds received under this Act will not be used for any program of vocational education (except personnel training programs under section 135, renovation programs under subpart 4 of part B, and homemaking programs under subpart 5 of this part) which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

(9) that the State has instituted policies and procedures to insure that copies of the State plan and annual program plan and accountability report and all statements of general policies, rules, regulations, and procedures issued by the State board and by any State agencies to which any responsibility is delegated by the State board concerning the administration of such plan and report will be made reasonably available to the public; and

(10) that the funds used for purposes of section 110(a) are consistent with the State plan submitted pursuant to section 613(a) of the Education of the Handicapped Act.

(Sec. 106(a); 20 U.S.C. 2306.)

(11) The State board shall also assure that it will cooperate with the Administrator of the National Center for Education Statistics, HEW, in supplying information and complying in its reports with the information elements and definition requirements, as specified in section 161(a) of the Act.

(Implements Sec. 161(a); 20 U.S.C. 2391.)

(12) The State board shall also assure that students served by Indian tribal organizations applying for or receiving funds under the Commissioner's discretionary prgorams, under authority of section 103(a)(1)(B) of the Act, shall be afforded the opportunity to participate in vocational education programs administered by the State.

(Implements Sec. 103(a)(1)(B); 20 U.S.C. 2303.)

Development of Five-Year State Plan

§ 104.161 Submission of five-year State plan.

Any State desiring to receive funds under the Act shall submit to the Commissioner a five-year State plan by:

(a) July 1, 1977, for fiscal years 1978 through 1982; and

(b) July 1, 1982, for fiscal years 1983 through 1987.

(Sec. 107(a)(1); 20 U.S.C. 2307)

§ 104.162 Representation required in the development of the five-year State plan.

In formulating its five-year State plan, the State board is required to involve the active participation of a representative of:

(a) The State agency having responsibility for secondary vocational education programs, designated by that agency;

(b) The State agency, if a separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

(c) The State agency, if a separate agency exists, having responsibility for community and junior colleges, designated by that agency;

(d) The State agency, if a separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

(Sec. 107(a)(1); 20 U.S.C. 2307.)

(e) A local school board or committee, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a)(1)(E); 20 U.S.C. 2307.)

(f) Vocational education teachers, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a)(1)(F); 20 U.S.C. 2307.)

(g) Local school administrators, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a)(1)(G); 20 U.S.C. 2307.)

(h) The State Manpower Services Council appointed under the authority of section 107(a)(2)(A)(i) of the Comprehensive Employment and Training Act of 1973, designated by that Council;

(i) The State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private nonprofit, and proprietary institutions, and includes occupational programs at a less-than-baccalaureate degree level, if a separate agency or commission exists, designated by that agency or commission; and

(j) The State advisory council on vocational education, designated by that council.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.163 Meetings of participating representatives.

The State board shall convene, as a group, the representatives of the agencies, councils, and individuals specified in § 104.162 for at least four meetings during the development of the five-year State plan. These meetings will be convened to accomplish the following purposes:

(a) First meeting: To plan for the development of the first draft of the five-year State plan;

(b) Second meeting: To consider the first draft of the five-year State plan;

(c) Third meeting: To consider the draft of the five-year State plan after it has been rewritten to reflect the results of the second meeting of the planning group; and

(d) Fourth meeting: To recommend for adoption the final five-year State plan.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.164 State board adoption of the five-year State plan.

(a) If the participating agencies, councils, and individuals are not able to agree upon the provisions of the five-year State plan, the State board will make make a final decision.

(b) In accordance with § 104.171(b)(1), the State board shall include in the five-year State plan:

(1) Any recommendation which is rejected by the State board indicating its source (i.e., the name of the individual and agency or council affiliation); and

(2) The reasons of the State board for rejecting the recommendation.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.165 Public hearings on the five-year State plan.

(a) In formulating the five-year State plan, the State board is required to conduct a series of public hearings. This series of public hearings shall be conducted:

(1) During the development, prior State plan;

(2) After giving sufficient public notice; and

(3) Throughout all regions of the State.

(b) The purpose of these public hearings is to provide the opportunity for all segments of the population of the State to give their views on:

(1) The goals which ought to be adopted in the State plan;

(2) The programs to be offered under the State plan;

(3) The allocation of responsibility for programs (courses) among the various levels of education and among the various institutions of the State; and

(4) The allocation of local, State, and Federal resources to meet these goals.

(c) In accordance with § 104.171(d), the State board shall include in the five-year State plan:

(1) The views expressed at the public hearings or comments submitted in writing;

(2) A description of how these views are reflected in the provisions of the five-year State plan; and

(3) The reasons for rejecting any view which is not accepted for inclusion in the five-year State plan.

(Sec. 107(a)(2); 20 U.S.C. 2307.)

§ 104.171 Certification of plans.

As used in this section, the term "plans" refers to the five-year State plan and the annual program plan and accountability report. The plans submitted shall include, as attachments, the following certifications:

(a) *Certification by the State attorney general.* The State attorney general, or other official designated in accordance with State law to advise the State board on legal matters, shall certify that the State board named in the plan is the sole agency which has authority under State law to submit the plan and to administer or supervise the administra-

tion of vocational education, and that all the plan's provisions with respect to the use of funds under the Act can be carried out by the State.

(Implements Sec. 104(a)(1); 20 U.S.C. 2304.)

(b) *Certification of involvement of designated agencies.*

(1) The State board shall certify that each of the agencies, councils, and individuals required in § 104.162 has been afforded the opportunity to be involved. The State board shall include in this certification all recommendations rejected by the Board, complete identification of the agency, council, or individual having made the rejected recommendation and the reasons for rejecting these recommendations, as required by § 104.164(b). This certification shall also indicate the meetings held under the authority of § 104.163.

(2) Each representative required in § 104.162 shall certify that he or she has had the opportunity to participate actively in formulating the plan.

(Implements Secs. 104(a)(3), 107(a)(1); 20 U.S.C. 2304, 2307.)

(c) *Certification of delegation.* The State board shall certify any delegation by the State board of responsibilities for administration, operation, or supervision of vocational education programs to other appropriate State agencies. The statement shall set forth the procedures used for delegation, the specific responsibilities delegated, and the specific agency or agencies involved.

(Implements Sec. 104(a)(2); 20 U.S.C. 2304.)

(d) *Certification of public hearings.* The State board shall certify the method used to provide reasonable notice and opportunity for public hearings throughout all regions of the State in order to permit all segments of the population to give their views on the goals for vocational educational which ought to be adopted in the plan in terms of the elements listed in §§ 104.165(b) and 104.207(b). The statement shall also include the views expressed at the hearings and a description of how those views are reflected in the plan. If any views are not reflected, the statement shall set out the reasons for rejecting them.

(Implements Sec. 107(a)(2), 108(a)(2); 20 U.S.C. 2307, 2308.)

(e) *Certification of local advisory councils.* The State board shall certify that eligible recipients within the State have been notified of their responsibility to establish local advisory councils. The State board shall also certify that eligible recipients receiving assistance under the Act to operate vocational education programs have established these councils.

(Implements Sec. 105(g); 20 U.S.C. 2305.)

(f) *Certification of consultation with State advisory council.* The State advisory council shall certify that the plan was prepared in consultation with the council.

(Implements Sec. 105(d); 20 U.S.C. 2305.)

(g) *Certification by full-time personnel of opportunity to review the plans.* The personnel assigned full time to review programs within the State to assure equal access to vocational education by both men and women shall certify that the opportunity to review the plan has been afforded.

(Implements Sec. 109(a)(3)(B); 20 U.S.C. 2309.)

(h) *Certification of adoption by State board.* The State board shall certify that development of the plan has been coordinated with the agencies, councils, and individuals as required by § 104.162 and that the final decision has been adopted by the State board, and that the plan constitutes the basis for operation and administration of the State's vocational education program.

(Implements Sec. 104(a)(1); 20 U.S.C. 2304.)

§ 104.181 Content of five-year State plan.

The State board shall submit the five-year State plan to the Commissioner, through the appropriate HEW Regional Office, by the July 1st preceding the beginning of the first fiscal year for which the plan is to take effect. The plan shall be composed of the following two parts:

(a) Procedures for carrying out certain assurances of the general application as required in § 104.182; and

(b) Program provisions as required in §§ 104.183 through 104.188.

(Sec. 107(b); 20 U.S.C. 2307.)

§ 104.182 Procedures to assure compliance with the general application.

The State board in its five-year State plan shall:

(a) Describe the information which the State board will require in local applications in order to meet the requirements of § 104.141(f)(4);

(Sec. 106(a)(4); 20 U.S.C. 2306.)

(b) Describe the procedures for affording eligible recipients reasonable notice of an opportunity for a hearing, for conducting the hearing, for providing a written record of the hearing, and for informing the recipient in writing of the decisions and reasons therefor;

(Implements Sec. 106(a)(4); 20 U.S.C. 2306.)

(c) Describe how the State board, for purposes of giving priority to applications, determines:

(1) Economically depressed areas and areas with high rates of unemployment which are unable to provide the resources necessary to meet the vocational education needs without Federal assistance; and

(2) Programs new to the area which are designed to meet new and emerging manpower needs and job opportunities in the area (and, where relevant, in the State and Nation);

(Implements Sec. 106(a)(5)(A); 20 U.S.C. 2306.)

(d) Describe the policies and procedures by which the State board determines how the amount of funds available under this Act will be made available to those applicants approved for funding, using the factors specified in § 104.141(f)(5)(B);

(Sec. 106(a)(5)(B); 20 U.S.C. 2306.)

(e) Set forth the policies and procedures instituted for public disclosure in accordance with § 104.141(f)(9); and

(Sec. 106(a)(9); 20 U.S.C. 2306.)

(f) Describe the procedures for insuring that funds for vocational programs for handicapped persons are used in a manner consistent with § 104.141(f)(10). The statement shall describe how the program provided each handicapped child will be planned and coordinated in conformity with and as a part of the child's individualized educational program as required by the Education of the Handicapped Act.

(Sec. 106(a)(10); 20 U.S.C. 2306.)

§ 104.183 Assessment of employment opportunities.

(a) The five-year State plan shall include an assessment of current and future needs for workers (job skills) within the State and, where appropriate, within the pertinent region of the country.

(b) This assessment shall reflect the latest available data of present and projected employment, including the data available from the State occupational information coordinating committee.

(Sec. 107(b)(1); 20 U.S.C. 2307.)

§ 104.184 Goals to meet employment needs.

The five-year State plan shall describe clearly the goals the State will seek to achieve with respect to its needs for workers identified in § 104.183 by the end of the five-year period covered by the five-year State plan. This description shall be in terms of the following four elements and shall include the reasons for choosing these elements:

(a) The programs (courses) and other training opportunities to be offered to meet the needs identified in § 104.183; (For the purposes of this part, the term "program" refers to OE instructional programs, as defined by the Office of Education in *Handbook VI, Standard Terminology for Curriculum and Instruction in Local and State School Systems* (1970), and means a planned sequence of courses, services, or activities designed to meet an occupational objective.)

(b) The projected enrollments of these programs and training opportunities;

(c) The allocations of responsibility for the offerings of those programs and training opportunities among the secondary, postsecondary, and adult levels of education and among the various types of institutions of the State; and

(d) The allocations of all local, State, and Federal financial resources available in the State for the programs and training opportunities among the secondary, postsecondary, and adult levels of education and among the various types of institutions of the State.

(Sec. 107(b) (2); 20 U.S.C. 2307.)

§ 104.185 Funding to meet employment needs.

(a) The five-year State plan shall set forth precisely the planned uses of Federal, State, and local education funds for each fiscal year of the State plan;

(b) The five-year State plan shall indicate how this allocation of funds will meet the goals identified in § 104.184;

(c) The description of the planned uses of funds shall be in terms of the four elements of § 104.184 (this does not require duplication of § 104.184(d));

(Sec. 107(b) (3) (A); 20 U.S.C. 2307.)

(d) The five-year State plan shall indicate the planned uses of funds under section 120(b) (1) (0) and section 130(b) (7) of this Act for:

(1) State administration;

(2) Local administration; and

(Implements Sec. 107(b) (3) (A); 20 U.S.C. 2307.)

(e) The five-year State plan shall set forth the reasons for choosing these particular uses of funds, except that the State will continue to use approximately the same amount of its State grant under subpart 2 (basic grant) of this part for programs in secondary schools during fiscal years 1978 and 1979 as it used during fiscal years 1975 and 1976, unless the State is able to demonstrate in its five-year State plan the need to shift funds from that use.

(Sec. 107(b) (3) (A); 20 U.S.C. 2307.)

§ 104.186 Funding to meet program (purpose) needs.

(a) The five-year State plan shall set forth precisely the intended uses of funds under the Act for:

(1) Basic grant programs in § 104.501;

(2) Program improvement and supportive services in § 104.701;

(3) Special programs for the disadvantaged in § 104.801 (funded under section 102(b) of the Act); and

(4) Consumer and homemaking education in § 104.901 (funded under section 102(c) of the Act).

(b) The five-year State plan shall set out the reasons for choosing the uses described in paragraph (a) of this section.

(c) The five-year State plan shall set forth precisely the intended uses of Federal funds, in accordance with the minimum percentages in §§ 104.312 and 104.313 to meet the special needs of:

(1) Handicapped persons;

(2) Disadvantaged persons; and

(3) Persons of limited English-speaking ability.

(d) The five-year State plan shall also set forth the intended allocation of State and local funds, in accordance with the matching requirements in § 104.303, to meet the special needs of:

(1) Handicapped persons;

(2) Disadvantaged persons; and

(3) Persons of limited English-speaking ability.

(Implements secs. 107(b) (3) (B), 110(a), (b); 20 U.S.C. 2307, 2310.)

§ 104.187 Policies for eradicating sex discrimination.

(a) The five-year State plan shall set forth a detailed description of policies and procedures which the State will follow to assure equal access to vocational education programs by both women and men.

This description shall include:

(1) Actions to be taken to overcome sex discrimination and sex stereotyping in all State and local vocational education programs;

(2) Incentive adopted by the State for eligible recipients to:

(i) Encourage the enrollment of both women and men in nontraditional courses of study; and

(ii) Develop model programs to reduce sex bias and sex stereotyping in training for and placement in all occupations.

(b) The five-year State plan shall set forth a program to assess and meet the needs of persons described in § 104.621. This program shall include:

(1) Special courses for these persons to learn how to seek employment; and

(2) Placement services for these persons once they complete the vocational education program.

(Sec. 107(b) (4); 20 U.S.C. 2307.)

§ 104.188 Coordination between manpower training programs and vocational education programs.

The five-year State plan shall describe the mechanism established for coordinating vocational education programs with manpower training programs conducted by prime sponsors under the Comprehensive Employment and Training Act (CETA), Pub. L. 93-203, and vocational education programs assisted under this Act. This description shall include the criteria developed to avoid duplication of programs under this Act and CETA.

(Sec. 107(b) (5); 20 U.S.C. 2307; Sen. Rept. 94-882; p. 68.)

DEVELOPMENT OF ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.202 Due date of annual program plan.

For each fiscal year, the annual program plan is due by the July 1st preceding the beginning of the applicable fiscal year. For example, the first annual program plan is required for fiscal year 1978 and is due in the appropriate HEW Regional Office by July 1, 1977.

(Sec. 108(b); 20 U.S.C. 2308.)

§ 104.203 Due date of annual accountability report.

For each fiscal year, the annual accountability report is due by the July 1st following the completion of the applicable fiscal year. For example, the first annual accountability report is required for fiscal year 1978 and is due in the appropriate HEW Regional Office by July 1, 1979.

(Sec. 108(b); 20 U.S.C. 2308.)

§ 104.204 Representation required in the development of the annual program plan and accountability report.

In formulating the annual program plan and accountability report for any given fiscal year, the State board is required to involve the active participation of a representative of each group set forth in § 104.162 (a) through (j).

(Secs. 107(a) (1), 108(a) (1); 20 U.S.C. 2307, 2308.)

§ 104.205 Meetings of participating representatives.

The State board shall convene, as a group, the representatives of the agencies, councils, and individuals specified in § 104.204 for at least three meetings during each fiscal year. These meetings will be convened to accomplish the following purposes:

(a) First meeting: To plan for the development of the first draft of the annual program plan and the accountability report;

(b) Second meeting: To consider the draft of the annual program plan and accountability report;

(c) Third meeting: To recommend for adoption the final annual program plan and accountability report.

(Sec. 108(a) (1); 20 U.S.C. 2308.)

§ 104.206 State board adoption of the annual program plan and accountability report.

(a) If the participating agencies, councils, and individuals are not able to agree upon the provisions of the annual program plan or the accountability report, the State board will make a final decision.

(b) The State board shall include in the annual program plan or, as appropriate, in the accountability report:

(1) Any recommendation which is rejected by the State board indicating its source (including the name of the individual and agency or council affiliation); and

(2) The reasons of the State board for rejecting the recommendation.

(Sec. 108(a) (1); 20 U.S.C. 2308.)

§ 104.207 Public hearing on the annual program plan and accountability report.

(a) In formulating the annual program plan and accountability report, the State board is required to conduct a public hearing. This public hearing shall be conducted:

(1) During the development, prior to adoption of the annual program plan and accountability report; and

(2) After giving sufficient public notice.

(b) The purpose of this public hearing is to provide an opportunity for all segments of the population of the State to give their views on:

(1) The goals which ought to be adopted in the annual program plan;

(2) The programs to be offered under the annual program plan;

(3) The allocation of responsibility for programs among the various levels of education and among the various institutions of the State; and

(4) The allocation of local, State, and Federal resources to meet these goals.

(Interprets Sec. 108(a)(2); 20 U.S.C. 2308.)

(c) The State board shall include in the annual program plan or, as appropriate, in the accountability report:

(1) The views expressed at the public hearing or comments submitted in writing;

(2) A description of how these views are reflected in the provisions of the annual program plan or the accountability report; and

(3) The reasons for rejecting any view which is not accepted for inclusion in the annual program plan or accountability report.

(Sec. 108(a)(2); 20 U.S.C. 2308.)

§ 104.221 Content of annual program plan for fiscal year 1978.

A five-year State plan which includes the program provisions in §§ 104.183 through 104.186 on a year-by-year basis will meet the requirements of the Act for the annual program plan, except that in addition to the planned uses of funds in § 104.186, the plan shall also set out precisely the proposed distribution of such funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the assurance given in the general application and in accordance with the policies and procedures in § 104.182(d).

(Interprets 108(b)(1); 20 U.S.C. 2308.)

§ 104.222 Content of annual program plans for the fiscal years following 1978.

The plan shall contain: (a) Any updating of the five-year State plan, as submitted under §§ 104.183 and 104.184, considered necessary to reflect later or more accurate employment data or a different level of funding than was anticipated;

(b) A description of how the uses of funds proposed for the fiscal year in § 104.185 will be complied with or changed (in light of anticipiated appropriations) and the reasons for the changes;

(c) A description of how the uses of funds under the Act proposed for the fiscal year in § 104.186 will be complied with or changed (in light of anticipated appropriations) and the reasons for the changes;

(d) A description of how funds used in (b) and (c) will comply with the minimum percentages, matching, and maintenance of effort requirements in § 104.301;

(e) The additional provisions set forth in § 104.221;

(f) The results of the:

(1) Coordination of programs funded under this Act and manpower training programs;

(2) Compliance of the State plan with the provisions contained in § 104.187 concerning providing equal access to programs by both men and women; and

(3) Participation of local advisory councils required to be established under § 104.171(e).

(Implements Sec. 108(b)(1); 20 U.S.C. 2308.)

§ 104.241 Content of the accountability report.

(a) The accountability report shall:

(1) Show the extent to which the State, during the fiscal year preceding the submission of the report, has achieved the goals of the approved five-year State plan, including a description in terms of the elements in § 104.184;

(2) Show the degree to which proposed uses of Federal, State, and local funds in § 104.222(b) have been complied with, including a description in terms of the elements in § 104.185;

(3) Show in detail how the funds used in § 104.222(d) complied with the minimum percentage, matching, and maintenance of effort requirements in § 104.301;

(Implements Sec. 108(b)(2)(A).)

(4) Show in detail how funds under the Act allocated for programs in § 104.186 have been used during the fiscal year, including:

(i) A description of uses of funds as set out in §§ 104.222(c);

(ii) A description of the distribution of funds available for these sections among local educational agencies and other eligible recipients in conformity with § 104.222(e); and

(iii) The results achieved by the uses of these funds.

(Sec. 108(b)(2)(B); 20 U.S.C. 2308.)

(b) The accountability report shall contain:

(1) A summary of the evaluation of programs conducted by the State in accordance with §§ 104.402 and 104.404; and

(2) A description of how the evaluation information has been used to improve the State's programs of vocational education, including consideration given to each recommendation in the evaluation report of the State advisory council for vocational education.

(Sec. 108(b)(2)(C); 20 U.S.C. 2308.)

APPROVAL OF FIVE-YEAR STATE PLAN AND ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.261 Conditions for approval of five-year State plan.

The Commissioner will not approve a five-year State plan until the Commissioner:

(a) Makes specific findings in writing as to the compliance of the five-year State plan with the provisions of the Act and applicable regulations;

(b) Makes a determination that adequate procedures are set forth, in accordance with § 104.182, to insure that assurances of the general application will be carried out;

(c) Makes a determination that adequate procedures are set forth in the five-year State plan to insure that the provisions of the plan will be carried out;

(Sec. 109(a)(1); 20 U.S.C. 2309.)

(d) Has received assurances that the full-time personnel assigned to review programs within the State to assure equal access by both men and women have been afforded the opportunity to review the five-year State plan; and

(Sec. 109(a)(3)(B); 20 U.S.C. 2309.)

(e) Makes a determination that the State has complied in preparing the five-year State plan with the nationally uniform definitions and information elements which have been developed under the authority of section 161 of the Act.

(Sec. 109(a)(3)(C); 20 U.S.C. 2309.)

§ 104.262 Conditions for approval of annual program plan and accountability report.

The Commissioner will not approve an annual program plan and accountability report until the Commissioner:

(a) Makes specific findings in writing as to the compliance of the annual program plan and accountability report with the provisions of the Act and applicable regulations;

(b) Makes a determination that adequate procedures are set forth to insure that the assurances of the general application will be carried out;

(c) Makes a determination that adequate procedures are set forth in the annual program plan and accountability report to insure that the provisions of the plan will be carried out;

(d) Makes a determination that the annual program plan and accountability report show progress in achieving the goals set forth in the approved five-year State plan;,

(Sec. 109(a)(2); 20 U.S.C. 2309.)

(e) Has received assurances that the full-time personnel assigned to review programs within the State to assure equal access by both men and women have been afforded the opportunity to review the annual program plan and accountability report; and

(Sec. 109(a)(3)(B); 20 U.S.C. 2309.)

(f) Makes a determination that the State has complied in preparing the annual program plan and accountability report with the nationally uniform definitions and information elements which have been developed under the authority of section 161 of the Act.

(Sec. 109(a)(3)(C); 20 U.S.C. 2309.)

§ 104.263 Notice of approval or disapproval.

After reviewing the five-year State plan, the annual program plan, and the accountability report, the Commissioner will notify the State board, in writing, of the granting or withholding of approval.

(Sec. 109 (a), (b); 20 U.S.C. 2309.)

WITHHOLDING OF APPROVAL OF PLAN

§ 104.271 Disapproval of plan.

The Commissioner:

(a) Will not finally disapprove a State plan without first affording the State

board reasonable notice and opportunity for a hearing;

(Sec. 109(b)(1); 20 U.S.C. 2309.)

(b) Will not disapprove a State plan solely on the basis of the distribution of State and local expenditures for vocational education;

(Sec. 109(b)(2); 20 U.S.C. 2309.)

(c) Will give at least fifteen (15) work days written notice of the disapproval of a plan or disapproval of the method by which the State is administering the plan; and

(Implements Sec. 109(c); 20 U.S.C. 2309.)

(d) Will hold the hearing within the State.

(Sec. 109(b)(1); 20 U.S.C. 2309.)

HEARINGS BEFORE THE COMMISSIONER ON AGENCY OR COUNCIL CHALLENGES TO THE FIVE-YEAR STATE PLAN OR THE ANNUAL PROGRAM PLAN

§ 104.281 Opportunity for a hearing.

(a) Sections 107 and 108 of the Act require the Commissioner to provide an opportunity for a hearing to certain agencies and councils which may be dissatisfied with any final decision of the State board with respect to the proposed five-year State plan or the annual program plan filed with the Commissioner.

(b) The agencies and councils which may request a hearing are those agencies and councils set forth in § 104.162 (a) through (d), and (h) through (j)). A representative of an agency or council may not request a hearing in his or her individual capacity.

(Secs. 107(a), 108(a); 20 U.S.C. 2307; 2308.)

(c) An agency or council may appeal to the Commissioner only:

(1) Matters which the agency or council has recommended to the State board for inclusion in the five-year State plan or annual program plan which the State board has not accepted (§ 104.164); or

(2) The State board's failure to follow the section 107 and section 108 process as to that agency or council.

(Interprets Sec. 107(a), 108(a), 20 U.S.C. 2307, 2308.)

§ 104.282 Appeal to the Commissioner.

(a) If a hearing is to be requested, the notice of appeal shall be in writing, addressed to the Commissioner and to the State board, and mailed by registered mail no later than fifteen (15) work days after the notification in writing has been received by the agency or council that the recommendations of the agency or council have been disapproved by the State board.

(b) Pending resolution of the matter for which a hearing has been requested, the five-year State plan or annual program plan submitted by the State board, if in substantially approvable form, may be conditionally approved by the Commissioner and may be conditionally deemed the operative plan.

(Implements Secs. 107(a), 108(a); 20 U.S.C. 2307, 2308.)

§ 104.283 Hearing.

(a) The Commissioner may delegate authority to an employee of the Office of Education to be the hearing officer. The hearing officer shall take testimony, consider the arguments of the parties, make findings of fact, make conclusions of law, and make recommendations to the Commissioner.

(b) The hearing officer shall give each party at least fifteen (15) work days notice of the time, place, and purpose of the hearing.

(c) The fifteen (15) work days notice of time and place of the hearing may be reduced or waived if all parties agree.

(d) The hearing may take place in Washington, D.C., or within the State whose agency or council is appealing, at the option of the requesting party and with the hearing officer's approval.

(e) The hearing officer may adjourn the hearing to a more satisfactory time or place on the motion of the hearing officer or on motion of a party.

(f) A record shall be kept of the hearing. The record may be taken by shorthand, stenotype, or mechanical or electrical means, and shall be transcribed.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.284 Prehearing.

(a) The hearing officer may require a prehearing conference.

(b) The prehearing conference shall be conducted in an informal manner for the purpose of:

(1) Simplification of the issues;

(2) Exchange of documents;

(3) Stipulation of facts;

(4) Deciding on procedures at the hearing; and

(5) Such other matters as may properly be dealt with to aid in expediting the orderly conduct or disposition of the hearing.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.285 Right to counsel, witnesses, cross examination.

(a) The parties shall have the right to be represented by counsel.

(b) The parties may offer evidence by witnesses appearing in person.

(c) Where a witness appears in person, the other party shall have the right to cross examine the witness.

(d) If a witness is unable to appear in person, documentary evidence or affidavits may be accepted in lieu of personal appearance. Affidavits shall be given only the probative value of a sworn statement which has not been subjected to cross examination.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.286 Evidence and standard of evidence.

(a) Formal rules of evidence do not apply. The hearing officer shall restrict the admission of evidence to that which is material and relevant.

(b) The hearing officer may request additional evidence.

(c) Findings of fact shall be supported by substantial evidence. "Substantial evidence," for the purpose of this hearing, means such relevant evidence as a reasonable mind might accept to support a conclusion. (305 U.S. 197, 229 (1938).)

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.287 Determinations to be made by the hearing officer.

(a) The hearing officer shall determine, with reference to the matters subject to appeal (§ 104.218(c)):

(1) Whether the procedural requirements of the Act have been fulfilled;

(2) Whether the decisions of the State board as set forth in the five-year State plan or the annual program plan are in accordance with the law;

(3) Whether the decisions of the State board in the five-year State plan or the annual program plan are based on substantial evidence; and

(4) Whether the State board's decisions in the five-year State plan or the annual program plan best carry out the purposes of the Act.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

(b) Where the hearing officer decides that the State board has conformed with the provisions of paragraphs (a), (1), (2), and (3) of this section the hearing officer shall issue findings of fact to that effect.

(c) Where the hearing officer decides that the five-year State plan or the annual program plan will best carry out the purposes of the Act, the hearing officer shall recommend a finding for the State board.

(d) Where the hearing officer decides that the State board has not conformed with the provisions of paragraphs (a)(1), (2), and (3) of this Section or that the five-year State plan or the annual program plan will not best carry out the purposes of the Act, the hearing officer shall recommend that the plan not be approved.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.288 Commissioner's decision.

(a) The findings of fact and recommendation of the hearing officer shall be conveyed to the parties and to the Commissioner.

(b) The findings and recommendation of the hearing officer shall become the findings and decision of the Commissioner unless the Commissioner reverses the hearing officer's findings or recommendation, in whole or in part, within fifteen (15) work days after the date the hearing officer conveys his or her findings and recommendation to the Commissioner.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

(c) The Commissioner may not unilaterally change a five-year State plan or annual program plan. The Commissioner shall approve a plan or disapprove a plan in its entirety and return it to the State board for revision.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307; Conf. Rept. No. 94-1701, pp. 216, 217.)

§ 101.289 Appeal by State board, or agency to the court of appeals.

A State board, or agency dissatisfied with a final action of the Commissioner

under section 107(a)(1) of the Act may appeal to the United States court of appeals for the circuit in which the State is located in accordance with the procedure specified in section 434(d)(2) of GEPA.

(Implements Sec. 107(a)(1); 20 U.S.C. 1232c).

SUSPENSION AND TERMINATION OF PAYMENTS FOR NONCOMPLIANCE

§ 104.291 Suspension and termination of payments for noncompliance.

Suspension and termination of payments for noncompliance shall be in accord with section 434(c) of GEPA. Section 434(c) of GEPA reads as follows:

(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been failure, by any recipient of funds under any applicable program, to comply substantially with terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(Sec. 109(f)(1); 20 U.S.C. 2309,, 1232c.)

APPEAL TO THE COURTS

§ 104.292 Appeal by State board on withholding of approval of State plan.

A State board which is dissatisfied with the final action of the Commissioner after an appeal to the Commissioner on withholding of approval of a State plan may appeal to the appropriate United States court of appeals as provided in section 109(d) of the Act.

(Sec. 109(d); 20 U.S.C. 2309.)

§ 104.293 Appeal by eligible recipients to the court of appeals.

An eligible recipient dissatisfied with the final action of the State board (or other appropriate State administrative agency) with respect to approval of an application by such eligible recipient for a grant under this Act may appeal to the appropriate United States court of appeals as provided in section 109(e) of the Act.

(Sec. 109(e): 20 U.S.C. 2309.)

FISCAL REQUIREMENTS

FEDERAL SHARE

§ 104.301 Application of Federal requirements.

(a) Federal vocational education funds shall be used solely to carry out the purposes of the Vocational Education Act and the regulations in this part. All expenditures of Federal funds are subject to the conditions and requirements of the Act and regulations.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

(b) Federal funds shall be used to share only in expenditures which are made in accordance with: (1) Assurances of the general application; (2) Five-year State plan; and (3) Annual program plan.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

(c) State and local funds which are applied to the matching requirements and maintenance of efforts requirements of the Act are subject to the conditions and requirements of the Act, regulations, and five-year State plan and annual program plan. This means that every program or activity supported in whole or in part by State or local funds which are used to match Federal funds must meet the same conditions and requirements as those supported by Federal funds.

(Interprets Sec. 111(a); 20 U.S.C. 2311; 20 U.S.C. 19.)

(d) Only actual expenditures of State and local funds shall be accepted as part of the State's matching and maintenance of effort requirements. This means that in-kind contributions shall not be used as part of the State's matching and maintenance of effort requirements. Requirements of 45 CFR 100b.92(b) of GEPR shall not apply to this program.

(Interprets Sec. 111(a); 20 U.S.C. 2311, 20 U.S.C. 19.)

§ 104.302 Federal share of expenditures—annual program plan.

(a) The Commissioner will pay to each State from the funds available under Section 102(a) an amount not to exceed 50 percent of the cost of carrying out its annual program plan.

(b) The State's matching share of expenditures under the annual program plan may be on a state-wide basis.

(c) Except for the fiscal requirements for the national priority programs described in § 104.303, State administration described in § 104.306, and local administration described in § 104.307, it is not necessary that Federal funds be matched by non-Federal funds for each purpose and program under the Act.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

§ 104.303 Federal share of expenditures—national priority programs.

(a) The Commissioner will pay to each State an amount not to exceed 50 percent of the excess cost (i.e., costs of special educational and related services above the costs for non-handicapped students) of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for handicapped persons.

(b) The Commissioner will pay to each State an amount not to exceed 50 percent of:

(1) The excess cost (i.e., costs of special educational and related services above the costs for non-disadvantaged persons) of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for disadvantaged persons (other than handicapped persons);

(2) The excess cost (i.e., costs of special education and related services above the costs for persons who are not classified as persons of "limited English-speaking ability") of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for persons who have limited English-speaking ability; and

(3) Stipends for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs.

(c) The Commissioner will pay to each State an amount not to exceed 50 percent of the cost of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for:

(1) Postsecondary programs for: (i) Persons who have completed or left high school; (ii) who are enrolled in organized programs of study for which credit is given toward and associate or other degree; and (iii) who are not enrolled in programs designed as baccalaureate or higher degree programs; and

(2) Adult programs for: (i) Persons who have already entered the labor market; (ii) persons who are unemployed; or (iii) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is not given toward an associate or other degree.

(Sec. 110; 20 U.S.C. 2310.)

§ 104.304 Allowable expenditures for vocational education for national priority programs.

A State shall use the funds allotted for national priority programs under section 110 of the Act only for expenditures which are attributable to vocational education programs, services, and activities described in § 104.303.

(Section 110; 20 U.S.C. 2310; 45 CFR 100, App. B, Part II.)

§ 104.305 Federal share of expenditures—100 percent payments.

(a) The Commissioner will pay to each State an amount up to 100 percent of the cost of:

(1) Cooperative vocational education programs which include students enrolled in nonprofit private schools pursuant to section 122(f) of the Act;

(2) Exemplary and innovative programs which include students enrolled in nonprofit private schools pursuant to section 132(b) of the Act; and

(3) Special programs for disadvantaged persons in areas of the State which have high concentrations of youth unemployment or school dropouts under section 140 of the Act.

(b) The Commissioner will pay to the Trust Territory of the Pacific Islands, the Northern Mariana Islands, Guam,

the Virgin Islands, and American Samoa up to 100 percent of the cost of carrying out all programs listed in §§ 104.302 and 104.303.

(Sec. 111(a)(1); 20 U.S.C. 2311.)

§ 104.306 Federal share of expenditures—State administration.

(a) The Commissioner will pay, from the funds allotted pursuant to section 102(a) of the Act, up to 50 percent of the cost of administration of the five-year State plan and annual program plan, except as indicated in paragraphs (b) and (c).

(Sec. 111(a)(2)(B); 20 U.S.C. 231.)

(b) The Federal share of the cost of administration of the five-year State plan and annual program plan in fiscal year 1978 is up to 80 percent and in fiscal year 1979 is up to 60 percent.

(Sec. 111(a)(2)(B); 20 U.S.C. 2311.)

(c) The Federal share of the cost of administration of the five-year State plan and annual program plan in fiscal year 1978 may be in excess of 80 percent under the following conditions:

(1) State and local expenditures for vocational education in a State for the latest fiscal year for which reliable data are available preceding fiscal year 1978 exceed the Federal expenditures for vocational education in that State by ten times. For example, if the Federal allocation in fiscal year 1977 is $2 million, the aggregate of State and local expenditures must be greater than $20 million; and

(2) The Commissioner determines that the costs of administration of the five-year State plan and annual program plan in fiscal year 1977 were necessary for the proper and efficient performance of the State's duties under the Act; and

(3) The Commissioner determines that the 80 percent ceiling on the Federal share of the cost of administration is insufficient to meet the needs of the State.

(d) The State shall use the following computation in determining its expenditure of Federal funds under paragraph (a) for administration of the five-year plan and annual program plan:

(1) not more than 80 percent of the total amount used for State administration shall be made from the basic grant in subpart 2;

(2) not more than 20 percent of the total amount used for State administration shall be made from program improvement and supportive services in subpart 3.

(e) The computation in paragraph (d) of this section does not require the State to use administrative funds in an 80/20 ratio between subpart 2 and subpart 3 activities. The State may use its administrative funds in whatever distribution best meets its needs.

(Interprets Sec 111(a)(2)(B); 20 U.S.C. 2311.)

§ 104.307 Federal share of expenditures—local administration.

(a) The Commissioner will pay, from the funds allotted pursuant to section 102(a) of the Act, a part of the costs of supervision and administration of vocational education programs carried out by an eligible recipient.

(b) The eligible recipient shall use either the method set forth in subparagraph (1) or subparagraph (2) of this paragraph in determining the payment of local administrative costs.

(1) The percentage of Federal funds used by an eligible recipient for the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the total vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is $100,000 and the Federal contribution to this eligible recipient is $25,000, or 25 percent of the total. If local administrative costs are $10,000, then up to 25 percent of this amount, or $2,500, may be charged against the Federal funds.

(2) Up to 50 percent of the cost of supervision and administration of the vocational education program of the eligible recipient may be charged to the Federal funds: *Provided*, That State funds match the Federal funds dollar for dollar. State funds used to match Federal funds shall be specifically made available for the purpose of local administration. For example, if the total cost of local administration is $10,000, then up to $5,000 may be charged to the Federal funds as long as the State contributes the same amount from a specific State appropriation.

(c) The State shall use the following computation in determining the amount of Federal funds available for the costs of local supervision and administration:

(1) Not more than 80 percent of the total amount used for supervision and administration by eligible recipients shall be made from the basic grant in subpart 2.

(2) Not more than 20 percent of the total amount used for supervision and administration by eligible recipients shall be made from program improvement and supportive services in subpart 3.

(d) The computation in paragraph (c) of this section does not require the State to use administrative funds in an 80/20 ratio between subpart 2 and subpart 3 activities. The State may use its administrative funds in whatever proportion best meets its needs.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

MINIMUM PERCENTAGES

§ 104.311 Percentage requirements with respect to State distribution of Federal funds.

The minimum percentages set forth in §§ 104.312, 104.313, and 104.314 are applicable to each State's allotment under section 102(a) of the Act.

(Interprets Sec. 110(a); 20 U.S.C. 2310.)

§ 104.312 Minimum percentage for the handicapped.

The State shall expend at least 10 percent of the allotment under section 102(a) of the Act for vocational education for handicapped persons as described in § 104.303(a). The State shall use these funds to the maximum extent possible to assist handicapped persons to participate in regular vocational education programs.

(Sec. 110(a); 20 U.S.C. 2310.)

§ 104.313 Minimum percentage for the disadvantaged.

(a) The State shall expend at least 20 percent of the section 102(a) allotment, subject to the conditions of paragraph (b), for the following purposes:

(1) Vocational education for disadvantaged persons (other than handicapped persons) as described in § 104.303(b)(1);

(2) Vocational education for persons who have limited English-speaking ability as described in § 104.303((b)(2); and

(3) Stipends for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs.

(Sec. 110(b); 20 U.S.C. 2310.)

(b) The State shall use, to the maximum extent possible, the funds expended for disadvantaged persons and persons of limited English-speaking ability to enable these persons to participate in regular vocational education programs.

(Sec. 110(d); 20 U.S.C. 2310.)

(c) The State shall use the following formula in determining its expenditures of funds under paragraph (a) of this section for vocational education for persons who have limited English-speaking ability:

(1) First determine the amount of Federal funds reserved for the purposes of paragraph (a) of this section;

(2) Determine the population having limited English-speaking ability who are between the ages of 15 and 24 inclusively;

(3) Determine the total population of the State aged 15 to 24 inclusively;

(4) Divide step two by step three;

(5) Multiply the quotient from step four by the total amount reserved for paragraph (a) of this section as indicated in step one;

(6) Expend at least this amount for vocational education for persons having limited English-speaking ability. The amount expended for this purpose shall not exceed the total amount reserved for paragraph (a) of this section.

For example, a State reserves $500,000 for the purposes of paragraph (a) of this section. The State determines its limited English-speaking population between the ages of 15 and 24 is 10,000. The total population of the State aged 15 to 24 is 200,000. 10,000 is divided by 200,000 and the quotient is .05. $500,000 is multiplied by .05 and the product is $25,000. Accord-

ingly, the State expends at least $25,000 for vocational education for persons who have limited-English speaking ability, but no more than $500,000.

(Implements Sec. 110(b)(2); 20 U.S.C. 2310.)

§ 104.314 Minimum percentage for postsecondary and adult.

The State shall expend at least 15 percent of the section 102(a) allotment for vocational education for:

(a) Postsecondary programs for: (1) Persons who have completed or left high school; (2) Who are enrolled in organized programs of study for which credit is given toward an associate or other degree; and (3) Who are not enrolled in programs designed as baccalaureate or higher degree programs; and

(b) Adult programs for: (1) Persons who have already entered the labor market; (2) Persons who are unemployed; or (3) Persons who have completed or left high school and who are enrolled in organized programs of study for which credit is not given toward an associate or other degree.

(Sec. 110(c); 20 U.S.C. 2310.)

§ 104.315 Expenditures for programs in secondary schools.

(a) The State shall expend from its allotment for the basic grant (subpart 2) approximately the same amount of Federal funds for programs in secondary schools during fiscal years 1978 and 1979 as it had expended during fiscal years 1975 and 1976.

(b) The State shall set forth in the five-year State plan its justification for the need to shift funds in the event the projected Federal expenditures for programs in secondary schools, in either fiscal year 1978 or 1979 are not within 95 percent of the amount of Federal funds expended for programs in secondary schools during fiscal years 1975 and 1976.

(Interprets Sec. 107(b)(3)(A); 20 U.S.C. 2307.)

MAINTENANCE OF EFFORT

§ 104.321 Maintenance of fiscal effort at the State level.

A State shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared to the amount expended in the previous year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.322 Withholding of payments.

The Commissioner will not make any payments to a State in a fiscal year unless the Commissioner finds that the fiscal effort of the State for vocational education on a per student basis or on an aggregate basis in the previous fiscal year was not less than the fiscal effort of the State on a per student basis or on an aggregate basis in the second preceding fiscal year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.323 Five percent rule.

Total State fiscal effort for vocational education in the preceding fiscal year shall not be considered reduced from the fiscal year effort of the second preceding fiscal year unless the per student expenditure or aggregate expenditure in the preceding year is less than that in the second preceding fiscal year by more than five percent. For example, a State which expends an aggregate of $10 million for vocational education in one fiscal year and an aggregate of $9,600,000 in the succeeding fiscal year will not be considered to have reduced fiscal effort for the purposes of the Vocational Education Act.

(Interprets Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.324 Unusual circumstance rule.

Any reduction in fiscal effort for any fiscal year by more than five percent will disqualify the State from receiving Federal funds unless the State is able to demonstrate to the satisfaction of the Commissioner the following:

(a) In the preceding fiscal year, the reduction was occasioned by unusual circumstances that could not have been fully anticipated or reasonably compensated for by the State. Unusual circumstances may include unforeseen decreases in revenues due to the decline of the tax base;

(b) In the second preceding fiscal year, contributions of large sums of monies from outside sources were made; or

(c) In the second preceding fiscal year, large amounts of funds were expended for long-term purposes such as construction and acquisition of school facilities or the acquisition of capital equipment.

(Interprets Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.325 Maintenance of fiscal effort at the local level.

A local educational agency shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.326 Withholding of payments.

A State shall not make payment under this Act to a local educational agency unless the State finds that the combined fiscal effort of the State and local educational agency on a per student basis or on an aggregate basis of the local educational agency and the State, was not less than the combined fiscal effort in the second preceding fiscal year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.327 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to local educational agencies.

(Interprets Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.328 Maintenance of fiscal effort by postsecondary educational institutions.

A postsecondary educational institution shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

(Sec. 111(b)(2); 20 U.S.C. 2311.)

§ 104.329 Withholding of payments.

A State shall not make any payment under this Act to a postsecondary educational institution unless the State finds that the fiscal effort on a per student basis or on an aggregate basis of that institution, with respect to the provision of vocational education, was not less than the fiscal effort of that institution in the second preceding fiscal year.

(Sec. 111(b)(2); 20 U.S.C. 2311.)

§ 104.330 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to postsecondary educational institutions.

(Interprets Sec. 111(b)(2); 20 U.S.C. 2311.)

STATE EVALUATION

§ 104.401 Purpose.

The State evaluations are to be used to assist local educational agencies and other recipients of funds in operating the best possible programs of vocational education and to improve the State's programs of vocational education.

(Sec. 112(b)(1); 20 U.S.C. 2312.)

§ 104.402 Evaluation by State board.

The State board shall, during the five-year period of the State plan, evaluate in quantitative terms the effectiveness of each formally organized program or project supported by Federal, State, and local funds. These evaluations shall be in terms of: (a) Planning and operational processes, such as:

(1) Quality and availability of instructional offerings;

(2) Guidance, counseling, and placement and follow-up services;

(3) Capacity and condition of facilities and equipment;

(4) Employer participation in cooperative programs of vocational education;

(5) Teacher/pupil ratios; and

(6) Teacher qualifications.

(b) Results of student achievement as measured, for example, by:

(1) Standard occupational proficiency measures;

(2) Criterion referenced tests; and

(3) Other examinations of students' skills, knowledge, attitudes, and readiness for entering employment successfully.

(c) Results of student employment success as measured, for example, by:

(1) Rates of employment and unemployment;

(2) Wage rates;

(3) Duration of employment; and

(4) Employer satisfaction with performance of vocational education students as compared with performance of persons who have not had vocational education.

(d) The results of additional services, as measured by the suggested criteria un-

der paragraphs (a), (b), and (c) of this section, that the State provides under the Act to these special populations:

(1) Women;
(2) Members of minority groups;
(3) Handicapped persons;
(4) Disadvantaged persons; and
(5) Persons of limited English-speaking ability.

(Implements Sec. 112(b)(1); 20 U.S.C. 2312.)

§ 104.403 Use of results of evaluation.

(a) The results of the evaluation shall be used as a basis to revise and improve the programs conducted under the approved five-year State plan.

(b) The State board shall make the results of the evaluations readily available to the State advisory council on vocational education.

(Sec. 112(b)(1)(A); 20 U.S.C. 2312.)

§ 104.404 Special data on completers and leavers.

(a) The State shall evaluate, using wherever possible statistically valid sampling techniques, the effectiveness of each program of vocational education which purports to teach entry-level job skills.

(b) The State shall evaluate each of these programs in order to ascertain the extent to which both those students who complete a program and those students who leave before completing a program:

(1) Find employment in occupations related to their training; and

(2) Are considered by their employers to be well-trained and prepared for employment.

(Sec. 112(b)(1)(B); 20 U.S.C. 2312.)

(c) The State shall use the following definitions for "program completer" and "program leaver":

(i) "Program completer" means a student who finishes a planned sequence of courses, services, or activities designed to meet an occupational objective and which purports to teach entry-level job skills; and

(2) "Program leaver" means a student who has been enrolled in and has attended a program of vocational education (which is part of a planned sequence of courses, services or activities designed to meet an occupational objective and which purports to teach entry-level job skills) and has left the program without completing it, except that no student shall be counted as a program leaver who is still enrolled in another program of vocational education. The term "program leaver" includes:

(i) Persons who leave the program voluntarily before its formal completion because they have acquired sufficient entry-level job skills to work in the field, and who have taken a job related to their field of training; and

(ii) All other leavers.

(d) For the purposes of this section, a State shall report separately on program completers and program leavers in accordance with the survey instructions and sampling standards to be provided by the National Center for Educational Statistics, HEW, as follows:

(1) Those who secure employment in the occupation for which they were trained or in occupations related to their vocational training, including the military;

(2) Those in paragraph (d)(1) of this section considered by their employers to be well trained and prepared for employment;

(Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

(3) Those who are enrolled for additional education and training; and

(4) Those in none of the above categories.

(Implements Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

(e) Persons who are enrolled for additional education and training shall not be counted as "leavers" in the evaluation data.

(Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

(f) The evaluation data on completers and leavers shall be collected at a date to be specified by the National Center for Educational Statistics, HEW.

(Implements Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

§ 104.405 Assurance of compatible data.

In order to assure that the data on program completers and leavers are compatible and can be aggregated and reported for all of the States, each State shall utilize in its data collection and reporting the information elements and uniform definitions which are developed for the national vocational education data reporting and accounting system, as required by section 161 of the Act.

(Sec. 161(a)(3)(B); 20 U.S.C. 2391.)

Subpart 2—Basic Grant

General Purposes

§ 104.501 Authorization of grants.

A State shall use its basic grant, which is equal to 80 percent of the funds allotted pursuant to section 102(a) of the Act, for the purposes set forth in § 104.502.

(Secs. 103(e), 120(a); 20 U.S.C. 2303, 2330.)

§ 104.502 Use of funds under the basic grant.

(a) The State shall expend not less than $50,000 for each fiscal year from the funds available under the basic grant (section 120 of the Act) for the support of full-time personnel to perform the functions set forth in §§ 104.71 through 104.76.

(Sec. 104(b), 120(b)(1)(F); 20 U.S.C. 2304, 2330.)

(b) The State shall expend not less than an amount of funds it deems necessary for each fiscal year from the funds available under the basic grant (section 120 of the Act) for special programs and placement services which are tailored to meet the needs of the group identified in § 104.621. The scope of these vocational education programs is described in § 104.622.

(Sec. 107(b)(4)(B); 20 U.S.C. 2307.)

(c) The State may use the balance of the funds available under the basic grant (section 120 of the Act), in accordance with the approved five-year State plan and annual program plan, for any of the following purposes:

(1) Vocational education programs, described in § 104.511;
(2) Work-study programs, described in § 104.521;
(3) Cooperative vocational education programs, described in § 104.531;
(4) Energy education programs, described in § 104.541;
(5) Construction of area vocational education school facilities, described in § 104.551;
(6) Provision of stipends, described in § 104.571;
(7) Placement services for students who have successfully completed vocational education programs, described in § 104.581;
(8) Industrial arts programs, described in § 104.591;
(9) Support services for women, described in § 104.611;
(10) Day care services for children of students in secondary and postsecondary vocational education programs, described in § 104.611; and
(11) Construction and operation of residential vocational schools, described in § 104.631.
(12) Provision of vocational training through arrangements with private vocational training institutions or other existing institutions capable of carrying out vocational education programs, described in § 104.514;
(13) State administration of the five-year State plan and annual program plan, described in § 104.306; and
(14) Local supervision and administration of vocational education programs, services, and activities, described in § 104.307.

(Sec. 120(b); 20 U.S.C. 2330.)

Vocational Education Programs

§ 104.511 Use of funds.

(a) A State may use funds under its basic grant (section 120 of the Act) for vocational education programs which are described in its approved five-year State plan and annual program plan.

(b) Vocational education programs mean "organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation (upgrading and retraining) for a career requiring other than a baccalaureate or advanced degree, and, for the purpose of this paragraph, the term 'organized education program' means only instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and the acquisition, maintenance, and repair of instructional supplies, teaching aids, and equipment, and the term 'vocational education' does not mean the

construction, acquisition or initial equipment of buildings, or the acquisition of rental of land."

(Secs. 120(b)(1)(A), 195(1); 20 U.S.C. 2330, 2461.)

§ 104.512 Vocational instruction.

(a) For the purposes of these regulations, vocational instruction means instruction which is designed upon its completion to prepare individuals for employment in a specific occupation or a cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or preparing to engage in such occupation or occupations.

(b) Vocational instruction may include:

(1) Classroom instruction;

(2) Shop, laboratory, and classroom related field work;

(3) Programs providing occupational work experience, and related instructional aspects of apprenticeship programs subject to the provisions of § 104.515;

(4) Remedial programs which are designed to enable individuals, including persons of limited-English speaking ability, to profit from instruction related to the occupation or occupations for which they are being trained by correcting whatever educational deficiencies or handicaps prevent them from benefiting from such instruction; and

(5) Activities of vocational student organizations which are an integral part of the vocational instruction, subject to the provisions in § 104.513.

(c) Vocational instruction may be provided to either:

(1) Those preparing to enter an occupation upon the completion of the instruction; or

(2) Those who have already entered an occupation but desire to upgrade or update their occupational skills and knowledge in order to achieve stability or advancement in employment.

(Implements Sec. 120(b)(1)(A); 20 U.S.C. 2330.)

§ 104.513 Activities of vocational education student organizations.

(a) A State may use funds under its basic grant to support activities of vocational education student organizations which are described in its approved five-year State plan and annual program plan and which are:

(1) An integral part of the vocational instruction offered;

(2) Supervised by vocational education personnel who are qualified in the occupational area which the student organization represents; and

(3) Available to all students in the instructional program without regard to membership in any student organization.

(b) An integral part of vocational instruction includes:

(1) Training in an organized educational program which is directly related to the preparation of individuals for paid or unpaid employment in a career requiring other than a baccalaureate or higher degree; or

(2) Field or laboratory work incident to the vocational training; or

(3) Development and acquisition of instructional materials, supplies, and equipment for instructional services.

(c) An integral part of vocational instruction does not include:

(1) Lodging, feeding, conveying, or furnishing transportation to conventions or other forms of social assemblage;

(2) Purchase of supplies, jackets, and other effects for students' personal ownership;

(3) Cost of non-instructional activities such as athletic, social, or recreational events;

(4) Printing and disseminating non-instructional newsletters;

(5) Purchase of awards for recognition of students, advisors, and other individuals; or

(6) Payment of membership dues.

(Implements Sec. 120(b)(1); 20 U.S.C. 2330; 31 U.S.C. 551.)

§ 104.514 Vocational instruction under contract.

(a) A State may make provision for any portion of the program of instruction on an individual or group basis by private (for profit or non-profit) vocational training institutions (subject to the requirements of paragraph (c) of this section) or other existing institutions capable of carrying out vocational programs through a written contract with the State board or local educational agency. The contract shall describe the portion of instruction to be provided by the institution and incorporate the standards and requirements of vocational instruction set forth in the regulations in this subpart and the approved five-year State plan.

(b) The contract for instruction shall be entered into only upon a determination by the State board or local educational agency that:

(1) The contract is in accordance with State and local law; and

(2) The instruction to be provided under contract will be conducted as a part of the vocational education program of the State and will constitute a reasonable and prudent use of funds available under the approved five-year State plan.

(c) The State board or local education agency may make arrangements with private (for profit or non-profit) vocational training institutions for the provision of vocational education where the State board or local educational agency determines:

(1) The private vocational training institution can make a significant contribution to attaining the objectives of the five-year State plan and can provide substantially equivalent training at a lesser cost; or

(2) The private vocational training institution can provide equipment or services not available in public institutions.

(d) The State board or local educational agency shall review the contracts with the institutions at least once a year.

(Implements Sec. 120(b)(1)(A); 20 U.S.C. 2330; Sen. Rept. 94-882, p. 67.)

§ 104.515 Apprenticeship programs.

The five-year State plan may provide for related instruction for apprentices who are employed to learn skilled trades. If such programs of instruction are offered, the plan must set forth the following assurances:

(a) The vocational training is supplemental to the on-the-job training experience of the apprentice.

(b) The worker involved in the apprenticeable occupation must be at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law.

(c) The apprentice training agreement must specify a given length of planned work experience training through employment on the job which is supplemented by related instruction.

(d) The skilled trade must possess all of the following characteristics:

(1) It is customarily learned in a practical way through training and work on the job;

(2) It is clearly identified and commonly recognized throughout an industry;

(3) It involves manual, mechanical, technical skills and knowledge; and

(4) It provides equal access to both sexes.

(e) Apprentices will be classified as follows:

(1) Registered. (i) Where the program or the apprentice, or both, are registered under the apprenticeship law of the State in which the apprentice is employed;

(ii) Where the program or the apprentice, or both, are registered by a State apprenticeship agency operating under powers vested in it by legally responsible State authority; and

(iii) Where the program or the apprentice, or both, are registered by the Bureau of Apprenticeship and Training, U.S. Department of Labor, under "standards" or "fundamentals" approved by the Federal Committee on Apprenticeship. Such registration or recognition exists only where neither conditions in paragraph (e)(1)(i) nor paragraph (e)(1)(ii) of this section exist.

(2) Non-registered. Where the program or the apprentice, or both, are not registered under any of the three conditions in paragraphs (e)(1)(i) (ii) and (iii) of this section, but a noncertifiable apprenticeship program is conducted under an implied or written agreement between the apprentice and an individual employer, a group of employees, employer-employee committees, or a governmental agency.

(3) The standards of apprenticeship programs must adhere to the requirements outlined in 29 CFR Part 29 (Department of Labor Apprenticeship Programs).

(29 U.S.C. 50)

WORK-STUDY PROGRAMS

§ 104.521 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) for approved work-study programs, which are described in its approved five-year State plan and annual program plan.

(Sec. 120(b)(1)(B); 20 U.S.C. 2330.)

§ 104.522 Policy and procedure for work-study programs.

A State conducting work-study programs under § 104.521 shall set forth in the approved five-year State plan:

(a) An assurance that the State will adopt policies and procedures to insure that Federal funds used for this purpose will be expended solely for the payment or compensation of students employed pursuant to work-study programs which meet the requirements of § 104.523; and

(b) The principles for determining the priority to be accorded applications from local educational agencies for work-study programs. These principles shall give preference to applications submitted by local educational agencies serving communities having substantial numbers of youths who have dropped out of school or who are unemployed. Work-study programs shall be funded in the order determined by the application of these principles.

(Sec. 120(b)(1)(B), 121(b); 20 U.S.C. 2330. 2331.)

§ 104.523 Requirements of work-study programs.

(a) Work-study programs shall be administered by the local educational agency and shall be made reasonably available (to the extent of available funds) to all youths in the area served by the agency who are able to meet the requirements of paragraph (b) of this section.

(b) Work-study programs shall be furnished only to a student who:

(1) Has been accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the State board and the local educational agency for vocational education programs assisted under this Act, or in the case of a student already enrolled in such a program, is in good standing and in full-time attendance;

(2) Is in need of the earnings from such employment to commence or continue the student's vocational education program; and

(3) Is at least 15 years of age and less than 21 years of age at the commencement of the student's employment, and is capable, in the opinion of the appropriate school authorities, of maintaining good standing in his or her vocational education program while employed under the work-study program.

(Sec. 121; 20 U.S.C. 2331.)

(c) No student shall be employed under a work-study program for more than 20 hours in any week in which classes in which the student is enrolled are in session.

(Implements Sec. 121(a)(3); 20 U.S.C. 2331.)

(d) No student employed under a work-study program shall be compensated at a rate which exceeds the hourly rate prevailing in the area for persons performing similar duties.

(e) Employment under these work-study programs shall be for the local educational agency or for some other public or nonprofit private agency or institution. Students employed in work-study programs assisted under the authority of this section shall not by reason of this employment be deemed employees of the United States, or their service Federal service, for any reason.

(f) In each fiscal year during which the work study program remains in effect, the local educational agency shall expend (from sources other than payments from Federal funds under this section) for the employment of its students (whether or not the employment is an area eligible for assistance under this section) an amount that is not less than its average annual expenditure for work-study programs of a similar character during the three fiscal years preceding the fiscal year in which its work-study program is approved.

(Sec. 121; 20 U.S.C. 2330, 2331.)

COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

§ 104.531 Use of funds.

(a) A State may use funds under its basic grant (section 120 of the Act) for grants to local educational agencies for establishing or expanding cooperative vocational education programs with the participation of public and private employers, when these programs are generally described in the approved five-year State plan and the annual program plan.

(b) The State, in its review of local appplications, shall give priority for funding cooperative vocational education programs to local educational agencies in areas that have high rates of school dropouts or youth unemployment.

(Sec. 122 (a), (e); 20 U.S.C. 2332.)

§ 104.532 Assurances in five-year State plan.

A State conducting cooperative vocational education programs under § 104.531 shall provide assurances in the approved five-year State plan that:

(a) Funds will be used only for developing and operating cooperative vocational education programs as defined in Appendix A and which provide training opportunities that may not otherwise be available and which are designed to serve persons who can benefit from these programs;

(b) Necessary procedures are established for cooperation with employment agencies, labor groups, employers, and other community agencies in identifying suitable jobs for persons who enroll in cooperative vocational education programs;

(c) Provision is made, where necessary, for reimbursement of added costs to employers for on-the-job training of students enrolled in cooperative programs, provided that the on-the-job training is related to existing career opportunities susceptible of promotion and advancement and which do not displace other workers who perform the work;

(Sec. 122; 20 U.S.C. 2332)

(d) The program provides cooperative on-the-job training that (1) employs and compensates student-learners in conformity with Federal, State, and local laws and regulations and in a manner not resulting in exploitation of the student-learner for private gain, and (2) is conducted in accordance with written training agreements between local educational agencies and employers;

(Implements Sec. 122(c); 20 U.S.C. 2332.)

(e) Procedures are developed and published for use by local educational agencies for providing ancillary services and activities to assure that quality in cooperative vocational education programs is provided for and may include pre-service and in-service training for teacher coordinators, supervision, curriculum materials, travel for students and coordinators necessary to the success of such programs, and evaluation; and

(f) Policies and procedures will be adopted for accounting, for continuous evaluation of cooperative vocational education programs, and for follow-up of students who have completed or left these programs.

(Sec. 122; 20 U.S.C. 2332.)

§ 104.533 Students in nonprofit private schools.

(a) A State using funds under its basic grant (Section 120 of the Act) for grants to local educational agencies for cooperative vocational education programs shall consult with the appropriate nonprofit private schools.

(b) Each local educational agency receiving funds from the State for cooperative vocational education programs shall:

(1) Identify the students enrolled in nonprofit private schools in the area served by the local educational agency whose educational needs are of the type which the cooperative vocational education programs and services may benefit; and

(2) Assess adequately the needs of the students identified in subparagraph (1) of this paragraph for the cooperative vocational education programs and services being offered; and

(3) Provide the students identified in subparagraph (1) of this paragraph with the opportunity for cooperative vocational education programs and services in a manner which will most effectively meet the needs of these students.

(c) The personnel, materials and equipment necessary to provide cooperative vocational education programs and services to nonprofit private school students shall remain under the administration, direction and control of the local educational agency.

(d) Cooperative vocational education programs carried out by local educational agencies which include students enrolled in nonprofit private schools may be supported up to 100 percent with Federal funds.

(e) Federal funds used to support cooperative vocational education programs which include students enrolled in nonprofit private schools will not be commingled with State or local funds so as to lose their identity. In developing policies and procedures, it shall not be necessary to require separate bank accounts for funds from Federal sources, so long as accounting methods will be established which assure that expenditures of the funds can be separately identified.

(Implements Sec. 122(f); H. Rept. 1085, p 46; 20 U.S.C. 2332.)

ENERGY EDUCATION

§ 104.541 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for grants to postsecondary institutions for energy education.

(Sec. 123; 20 U.S.C. 2333.)

§ 104.542 Applications by postsecondary educational institutions.

(a) A State shall make a grant to a postsecondary educational institution only on application by the postsecondary educational institution to the State.

(b) The application shall describe with particularity a program for the training of miners, supervisors, and technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mining technology, including provision for supplementary demonstration projects or short-term seminars, which program may include curriculums such as:

(1) Extraction, preparation, and transportation of coals;

(2) Reclamation of coal mined land;

(3) Strengthening of health and safety programs for coal mine employees;

(4) Disposal of coal mine wastes; and

(5) Chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process.

(c) Postsecondary educational institutions may use funds for the acquisition of equipment necessary for the conduct of these programs.

(Sec. 123(a)(1)(2) (A) through (E); 20 U.S.C. 2333.)

§ 104.543 Solar energy.

A State may also use funds under its basic grant (section 120 of the Act) to make grants to postsecondary educational institutions to carry out energy education programs for:

(a) Training of individuals needed for the installation of solar energy equipment; and

(b) Training necessary for the installation of: (1) Glass paneled solar collectors; (2) Wind energy generators; and (3) Other related applications of solar energy.

(Sec. 123(b); 20 U.S.C. 2333.)

CONSTRUCTION OF AREA VOCATIONAL EDUCATION SCHOOL FACILITIES

§ 104.551 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) to pay costs of constructing area vocational education school facilities, in accordance with the approved five-year State plan and annual program plan.

(Sec. 120(b)(1)(E); 20 U.S.C. 2330.)

§ 104.552 Types of facilities.

The State may use funds under the basic grant for construction if the facility meets one of the following requirements:

(a) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market; or

(b) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or

(c) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

(d) The department or division of a junior college or community college or university operating under the policies of the State board which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree. These vocational education programs must:

(1) Be available to all residents of the State or an area of the State designated and approved by the State board; and

(2) In the case of a school, department, or division described in (c) or (d), admit as regular students both persons who have completed high school and persons who have left high school.

(Sec. 195(2); 20 U.S.C. 2461.)

§104.553 Construction requirements.

An area vocational education school facility constructed under provisions of §§ 104.551 and 104.552 must meet the requirements of (a) non-discrimination provisions in 45 CFR Part 80. This includes 45 CFR 80.3(b)(3) which provides that, in determining the site or location of the facility, a recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, or national origin, Subpart K—"Construction Requirements" in the General Education Provisions Regulations, 45 CFR 100b.155 through 100b.192, and (c) the Architectural Barriers Act of 1968, 42 U.S.C. 4151, pertaining to standards for design, construction and alteration of buildings.

(Sec. 120(b)(1)(E); 20 U.S.C. 2330; 45 CFR 100b.157 through 100b.192 42 U.S.C. 4151)

PROVISION OF STIPENDS

§ 104.571 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for the provision of stipends for students entering or already enrolled in vocational education programs if these students have acute economic needs which cannot be met under work-study programs, subject to the restrictions in § 104.572.

(Sec. 120(b)(1)(G); 20 U.S.C. 2330.)

§ 104.572 Restrictions on payment of stipends.

No funds shall be used for the payment of stipends to students entering or already enrolled in programs of vocational education unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to:

(a) Inadequate funding in other programs providing similar activities; or

(b) Other services in the area that are inadequate to meet the needs.

(Sec. 120(b)(1)(G); 20 U.S.C. 2330.)

§ 104.573 Application for payment of stipends by eligible recipients.

An eligible recipient desiring to provide stipends for eligible students under §§ 104.571 and 104.572 shall include a request for funds in the application submitted to the State board and shall provide in the application an assurance that each applicant to be approved meets the requirements of §§ 104.571 and 104.572.

(Sec. 120(b)(1)(G); 20 U.S.C. 2330.)

§ 104.574 Rates for stipends.

Students entering or already enrolled in vocational education programs may be paid stipends at a rate not to exceed the higher of:

(a) The minimum wage prescribed by State or local law multiplied by the number of hours per week the student is enrolled in the vocational eductaion program; or

(b) The minimum hourly wage set out under 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours per week the student is enrolled in the vocational education program.

(Implements Sec. 120(b)(1)(G); 29 CFR 95.34(c); 20 U.S.C. 2330.)

PLACEMENT SERVICES FOR STUDENTS WHO HAVE SUCCESSFULLY COMPLETED VOCATIONAL EDUCATION PROGRAMS

§ 104.581 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), in accordance with the approved five-year State plan and annual program plan, for providing placement services for students

who have successfuly completed vocational education programs, subject to restrictions in § 104.582.

(Sec. 120(b) (1) (H); 20 U.S.C. 2330.)

§ 104.582 Restrictions on placement services.

A State shall not use funds for placement services for students who have successfully completed vocational education programs, unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to:

(a) Inadequate funding in other programs providing similar activities; or

(b) Other services in the area that are inadequate to meet the needs. For example, if insufficient funds are available under Section 134(a) (3) for the placement of students successfully completing vocational education programs, the State may use funds under the basic grant for this purpose.

(Sec. 120(b) (2); 20 U.S.C. 2330.)

§ 104.583 Application for funds by eligible recipients.

An eligible recipient desiring to provide placement services to students who have successfully completed vocational education programs under § 104.581 shall:

(a) Include the request for funds in the local application submitted to the State board; and

(b) Provide assurances that all placement services to be provided meet the requirements of § 104.582.

(Sec. 120(b) (1) (H); 20 U.S.C. 2330.)

INDUSTRIAL ARTS

§ 104.591 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for industrial arts programs which meet the requirements set forth in § 104.592.

(Sec. 120(b) (1) (I); 20 U.S.C. 2330.)

§ 104.592 Industrial arts programs.

Industrial arts education programs which may be funded under § 104.591 are those industrial arts programs which are designed to meet the purposes of this Act (including the elimination of sex stereotyping) and which:

(a) Pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designating, constructing, evaluating, and using tools, machines, materials, and processes; and

(b) Assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(Sec. 195(15); 20 U.S.C. 2461.)

SUPPORT SERVICES FOR WOMEN

§ 104.601 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in its approved five-year State plan and annual program plan, for support services for women who enter vocational education programs designed to prepare individuals for employment in jobs which have been traditionally limited to men.

(Sec. 120(b) (1) (J); 20 U.S.C. 2330.)

§ 104.602 Types of support services.

Support services to be provided under § 104.601 include:

(a) *Counseling.* Counseling women entering and enrolled in non-traditional programs on the nature of these programs and on the ways of overcoming the difficulties which may be encountered by women in these programs. Counselors may furnish supportive services to assist students in adjusting to the new employment requirements.

(Implements Sec. 120(b) (1) (J); 20 U.S.C. 2330.)

(b) *Job development.* Programs and activities in the area of job development include the provision of materials and information concerning the world of work which present women students entering, enrolled in, or interested in nontraditional programs the options, opportunities, and range of jobs available in these nontraditional fields. Job development support services may also be carried out through bringing persons employed in these nontraditional fields into the schools, as well as providing opportunities for women students to visit the work place of business and industry so as to afford them a clear understanding of the nature of the work, including an understanding of the work setting in which these jobs are performed.

(Implements Sec. 120(b) (1) (J); 20 U.S.C. 2330; H.R. Rept No. 94-1085, pp. 23-25.)

(c) *Job follow-up support.* Support services may be provided to assist women students in finding employment relevant to their training and interests. Follow-up services may be provided to assist students in the work force, and dealing with barriers which women face in working in these nontraditional areas.

(Implements Sec. 120(b) (1) (J); 20 U.S.C. 2330.)

§ 104.603 Support to increase number of women instructors.

In funding programs and activities of support services for women, funds may be used to increase the number of women instructors involved in the training of individuals in programs which have traditionally enrolled mostly males, so as to provide supportive examples for these women who are preparing for jobs in these nontraditional areas of employment.

(Implements Sec. 120) (b) (1) (J); 20 U.S.C. 2330; H.R. Rept. No. 1085, p. 24.)

DAY CARE SERVICES FOR CHILDREN OF STUDENTS

§ 104.611 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, to provide day care services for children of students (both male and female and including single parents) in secondary and postsecondary vocational education programs.

(Sec. 120(b) (1) (K); 20 U.S.C. 2330.)

§ 104.612 Day care services.

(a) Day care services shall be for the purpose of providing appropriate care and protection of infants, pre-school and school-age children in order to afford students who are parents the opportunity to participate in vocational education programs.

(b) The day care services provided under this section shall be governed by the Federal Interagency Day Care Requirements (45 CFR Part 71).

(Implements Sec. 120(b) (1) (K); 20 U.S.C. 2330.)

VOCATIONAL EDUCATION PROGRAMS FOR DISPLACED HOMEMAKERS AND OTHER SPECIAL GROUPS

§ 104.621 Use of funds.

A State shall use funds under its basic grant (section 120 of the Act) in accordance with its approved five-year State plan and annual program plan to provide vocational education programs for the following special groups:

(a) Persons who had been homemakers but who now, because of dissolution of marriage, must seek employment;

(b) Persons who are single heads of households and who lack adequate job skills;

(c) Persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

(d) Women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered as job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered as job areas for males.

(Secs. 107(b) (4) (B), 120(b) (1) (L); 20 U.S.C. 2307, 2330)

§ 104.622 Scope of programs.

The State shall fund programs, in accordance with the policies and procedures described in its approved five-year State plan pursuant to § 104.187(b), to

assess and meet the needs of the groups described in § 104.621. These programs shall include:

(a) Organized educational programs necessary to prepare these special groups for employment, including the acquisition, maintenance and repair of instructional equipment;

(b) Special courses preparing these individuals in how to seek employment; and

(c) Provision of placement service for the graduate of these programs.

(Implements Sec. 120(b)(1)(L); 20 U.S.C. 2330.)

CONSTRUCTION AND OPERATION OF RESIDENTIAL VOCATIONAL SCHOOLS

§ 104.631 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) when included in its five-year State plan and annual program plan for the construction equipment, and operation of residential vocational schools, including room, board, and other necessities.

(Sec. 120(b)(1)(M); 20 U.S.C. 2330.)

§ 104.632 Residential vocational schools.

A residential vocational school is an institution which provides vocational education for youths (males and females) who are at least 15 years of age and less than 21 years of age at the time of enrollment, and who need full-time study on a residential basis in order to benefit fully from the education. For the purposes of this section, institutions to which juveniles are assigned as a result of their delinquent conduct are not residential vocational schools. (This does not prohibit States from using funds under section 120 of the Act for the provision of vocational education programs in correctional institutions.)

(Sec. 124; 20 U.S.C. 2334.)

§ 104.633 Special considerations for residential vocational schools.

(a) States shall give special consideration to the needs of large urban areas and isolated rural areas having substantial numbers of youths who have dropped out of school or who are unemployed.

(b) Funds may not be used for schools in which students are segregated because of race.

(Sec. 124(b); 20 U.S.C. 2334.)

§ 104.634 Construction requirements.

When Federal funds are used to pay part of the cost of constructing a residential vocational school, the facility must meet the requirements of § 104.553.

(Sec. 120(b)(1)(M); 20 U.S.C. 2330; 45 CFR 100b.157 through 100b.192.)

Subpart 3—Program Improvement and Supportive Services

§ 104.701 Authorization of grants.

A State shall use 20 percent of the funds allotted pursuant to section 102(a) of the Act for any of the following purposes, except as provided in § 104.762(a):

(a) Program improvement described in § 104.702;

(b) Vocational guidance and counseling described in § 104.761;

(c) Vocational education personnel training described in § 104.771;

(d) Grants to overcome sex bias and sex sterotyping described in § 104.791;

(e) State administration of the five-year State plan and annual program plan described in § 104.306; and

(f) Local supervision and administration of vocational education programs, services, and activities described in § 104.307.

(Secs. 103(e), 130; 20 U.S.C. 2303, 2350.)

PROGRAM IMPROVEMENT

§ 104.702 Purpose.

The purpose of program improvement is to improve vocational education by the support of research programs, exemplary and innovative programs, and curriculum development programs.

(Sec. 130; 20 U.S.C. 2350.)

§ 104.703 Research coordinating unit.

(a) In order to expend funds for program improvement, the State shall establish a research coordinating unit to coordinate the research, exemplary and innovative programs, and curriculum development activities in the State.

(b) The State shall set forth the organizational structure of this research coordinating unit in the five-year State plan.

(c) The State shall develop a comprehensive plan of program improvement which includes:

(1) The intended uses of funds available under section 130 of the Act to support activities of program improvement;

(2) A description of the State's priorities for program improvement; and

(3) The procedures to be used by the research coordinating unit to insure that the findings and results of the program improvement activities in the State are disseminated throughout the State in a coordinated fashion.

(d) The State shall include the comprehensive plan of program improvement in the five-year State plan and annual program plan.

(e) The research coordinating unit shall submit to the Commissioner and to the National Center for Research in Vocational Education the following:

(1) Two copies of an abstract of each approved project for program improvement, within 30 calendar days after approval of the project, containing the source and amount of funds obligated for the project; and

(2) Two copies of the final report resulting from the State project, within three months after the ending date of the project.

(f) The research coordinating unit may use funds available under section 130 of the Act for the purposes set forth in §§ 104.705, 104.706, and 104.708. This unit may contract for the performance of activities described in §§ 104.705, 104.706, and 104.708, or this unit may perform the activities set forth in § 104.705, using its own staff. The cost of the professional and support staff of the research coordinating unit is supportable with Federal funds available under section 130 of the Act.

(Implements Secs. 130, 131, 132, 133, 171; 20 U.S.C. 2350 through 2353, 2401; H.R. Rept. 94-1085, p. 44; H.R. Rept. 94-1701, pp. 225-226.)

§ 104.704 Contract requirements.

No contract shall be made pursuant to §§ 104.705, and 104.708 unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contracts.

(Sec. 131(b), 133(b); 20 U.S.C. 2351, 2353.)

§ 104.705 Use of funds for research programs.

A research coordinating unit may use funds available under section 130 of the Act directly or by contract for:

(a) Applied research and development in vocational education;

(b) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping;

(c) Improved curriculum materials for presently funded programs in vocational education and new curriculum materials for new and emerging job fields, including a review and revision of any curricula developed under this section to insure that such curricula do not reflect stereotypes based on sex, race, or national origin;

(d) Projects in the development of new careers and occupations, such as:

(1) Research and experimental projects designed to identify new careers in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions, and to delineate within such career roles with the potential for advancement from one level to another;

(2) Training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (1) including programs to prepare professionals (including administrators) to work effectively with aides; and

(3) Projects to evaluate the operation of programs for the training, development, and utilization of public service aides particularly their effectiveness in providing satisfactory work experiences and in meeting public needs; and

(e) Dissemination of the results of the contracts made pursuant to paragraphs

(a) through (d), as well as the results of other research projects, including employment of persons to act as disseminators on a local level, of these results.

(Sec. 131(a); 20 U.S.C. 2351.)

§ 104.706 Use of funds for exemplary and innovative programs.

(a) The research coordinating unit may use funds available under section 130 of the Act directly or by contract for:

(1) Programs to develop high quality vocational education programs for urban centers with high concentrations of:

(i) Economically disadvantaged individuals;

(ii) Unskilled workers; and

(iii) Unemployed individuals.

(2) Programs to develop training opportunities for:

(i) Persons in sparsely populated rural areas; and

(ii) Individuals migrating from farms to urban areas.

(3) Programs of effective vocational education for persons of limited English-speaking ability;

(4) Establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and

(5) Programs designed to broaden occupational aspirations and opportunities for youth, especially for youth who have academic, socioeconomic, or other handicaps. These programs include:

(i) Programs and project to familiarize elementary and secondary students with the broad range of occupations for which special skills are required and the requisites for careers in those occupations; and

(ii) Programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.

(6) Dissemination of the results of these contracts made under the authority of paragraphs (a) through (e), including employment of persons to act as disseminators, on a local level, of these results.

(Sec. 132(a); 20 U.S.C. 2352.)

(b) Every contract made by a research coordinating unit for the purpose of funding exemplary and innovative projects shall:

(1) Give priority to programs and projects designed to reduce sex bias and sex stereotyping in vocational education;

(2) To the extent consistent with the number of students enrolled in private nonprofit schools in the area to be served, whose educational needs are of the type which the program is designed to meet, make provision (in accordance with the requirements set forth in § 104.533) for the participation of these students in the programs; and also

(3) Provide that the Federal funds made available for exemplary and innovative programs to accommodate students in nonprofit private schools will not be commingled with State or local funds.

(Sec. 132(b); 20 U.S.C. 2352.)

§ 104.707 Disposition of exemplary and innovative programs.

The State shall indicate in the annual program plan and accountability report covering the final year of financial support by the State for any exemplary and innovative program:

(a) The proposed disposition of the program when Federal support ends; and

(b) The means by which successful or promising programs will be continued and expanded within the State.

(Sec. 132(c); 20 U.S.C. 2352.)

§ 104.708 Use of funds for curriculum development programs.

The research coordinating unit may use funds available under section 130 of the Act directly or by contract for:

(a) Development and dissemination of vocational education curriculum materials for new and changing occupational fields;

(b) Development and dissemination of vocational education curriculum materials for:

(1) Handicapped persons;

(2) Disadvantaged persons (other than handicapped persons);

(3) Persons of limited English-speaking ability;

(c) Development and dissemination of curriculum and guidance and testing materials designed to overcome sex bias and sex stereotyping in vocational educational programs;

(d) Support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex; and

(e) Development and dissemination of other curriculum materials designed to improve the State's vocational education programs.

(Sec. 133(a); 20 U.S.C. 2353.)

VOCATIONAL GUIDANCE AND COUNSELING

§ 104.761 Purpose.

The purpose of vocational guidance and counseling assistance is to improve the State's vocational education programs by providing support for vocational development guidance and counseling programs, services, and activities.

(Secs. 130(b)(4), 134(a); 20 U.S.C. 2350, 2354.)

§ 104.762 Conformity with five-year State plan.

(a) A State shall use not less than 20 percent of the Federal funds available under section 130 of the Act to support vocational development guidance and counseling programs, services, and activities.

(b) The expenditure of funds for this purpose shall be in accordance with the approved five-year State plan and annual program plan.

(Sec. 134; 20 U.S.C. 2354; Sen. Rept. 94-882, p. 89.)

§ 104.763 Kinds of programs, services, and activities.

Funds made available to a State under the vocational guidance and counseling program (section 134 of the Act) shall be used to support one or more of the following activities:

Guidance and counseling.

(a) Initiation, implementation, and improvement of high quality vocational guidance and counseling programs and activities;

(b) Vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;

(c) Provision of educational and job placement programs and follow-up services for students in vocational education and for individuals preparing for professional occupations or occupations requiring a baccalaureate or higher degree. Follow-up services provided to baccalaureate or higher degree students shall be only for students enrolled on or after October 1, 1977;

(d) Vocational guidance and counseling training designed to acquaint guidance counselors with (1) the changing work patterns of women, (2) ways of effectively overcoming occupational sex stereotyping, and (3) ways of assisting girls and women in selecting careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free;

(e) Vocational and educational counseling for youth offenders and adults in correctional institutions;

(f) Vocational guidance and counseling for persons of limited English-speaking ability;

(g) Establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped indivduals, individuals from economically depressed communities or areas, and early retirees; and

(h) Leadership for vocational guidance and exploration programs at the local level.

(Implements Sec. 134(a); 20 U.S.C. 2354; Sen. Rept. No. 95-142.)

§ 104.764 Special emphasis.

Recipients of funds allocated by the State for programs, services, and activities listed in § 104.763 (a) or (b) shall use those funds, insofar as is practicable:

(a) To bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students;

(b) To bring students into the work establishments of business and industry, the professions, and other occupations to acquaint students with the nature of work accomplished therein; and

(Sec. 134(b); 20 U.S.C. 2354.)

(c) To enable guidance counselors to obtain experience in business and industry, the professions, and other occupational pursuits which will better enable those counselors to carry out their guidance and counseling duties.

(Sec. 134(b); 20 U.S.C. 2354; Conf. Rept. No. 94-1701, p. 225.)

VOCATIONAL EDUCATION PERSONNEL TRAINING

§ 104.771 Purpose.

The purpose of vocational education personnel training is to improve the State's vocational education programs and the services which support those programs by improving the qualifications of persons serving or preparing to serve in vocational education programs.

(Sec. 135(a); 20 U.S.C. 2355.)

§ 104.772 Conformity with five-year State plan.

(a) The State may use funds available under section 130 of the Act to support vocational education personnel training programs.

(Sec. 135(a); 20 U.S.C. 2355.)

(b) In order to be eligible for support under section 130 of the Act, specific programs and projects of training must be in accord with the general plan for vocational education personnel training as set forth in the approved five-year State plan and annual program plan for vocational education.

(Sec. 130(b); 20 U.S.C. 2350.)

§ 104.773 Eligible participants.

Training may be provided to persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel.

(Sec. 135(a); 20 U.S.C. 2355.)

§ 104.774 Types of training.

Funds available to the State under section 130 of the Act may be used to support programs and projects designed to improve the qualifications of persons who are eligible under § 104.773, including (but not limited to) the following:

(a) Training or retraining for teachers, and supervisors and trainers of teachers, in vocational education in new and emerging occupations;

(b) In-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs, and to overcome sex bias and sex stereotyping in vocational education programs;

(c) Provisions for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrangements for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such schools;

(d) Training to prepare journeymen in the skilled trades or occupations for teaching positions;

(e) Training, including in-service training, for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision and administration of vocational education for persons who are disadvantaged, or handicapped, or who are of limited English-speaking ability, and to train or retrain counseling and guidance personnel to meet the special needs of these persons;

(f) Provision of short-term or regular-session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

(Sec. 135(a); 20 U.S.C. 2355.)

§ 104.775 Grants or contracts.

The State board may make grants or contracts, in accordance with its five-year State plan and annual program plan, in support of both training and retraining programs and projects to provide:

(a) Both pre-service and in-service education; and

(b) Both regular-session (academic year) institutes and short-term institutes.

(Sec. 135 (a)(6), (b); 20 U.S.C. 2355.)

§ 104.776 Stipends to trainees.

Within the limits set in paragraphs (c) through (f) of this section, the State board may, at its discretion, authorize payment of:

(a) Stipends to participating trainees in programs or projects supported under section 135 of the Act; and

(b) Allowances for other expenses for such trainees and their dependents.

(Sec. 135(b); 20 U.S.C. 2355.)

(c) *Part-time and short-term training.* For part-time training and for short-term training (for periods not in excess of the equivalent of ten working days), the upper limits of stipends per participant are:

(1) Per hour of actual training, a sum not in excess of the average amount earned per hour of teaching by full-time classroom teachers in the State;

(2) Per full day of training, a sum not in excess of six times the rate per hour set in paragraph (c)(1) of this section; and

(3) Per five-day week of training, a sum not in excess of five times the rate per day set in paragraph (c)(2) of this section.

(d) *Full-time academic year or summer session.* The upper limits for stipends per participant for full-time training are:

(1) Per academic year of approximately nine months, a sum not in excess of $4500; and

(2) Per summer session of at least six weeks, a sum not in excess of $900.

(e) *Other periods of full-time training.* For full-time training for periods of more than the equivalent of ten full days and less than six weeks, the stipend is limited to a sum calculated at a rate proportionate to $500 per calendar month.

(f) *Other allowances.* In addition to the sum allowable under authority of paragraphs (c), (d), and (e) of this section, the State may make payments only as follows:

(1) For the cost of participant travel to and from training sites, a participant is allowed the same per-mile rate for automobile travel as an employee of the State educational agency;

(2) For support of dependents of participants, a sum not in excess of:

(i) $675 per dependent for each academic year of full-time training; and

(ii) $170 per dependent for full-time training during a summer session of at least six weeks.

(Implements Sec. 135(b); 20 U.S.C. 2355.)

GRANTS TO OVERCOME SEX BIAS AND SEX STEREOTYPING

§ 104.791 Purpose.

The purpose of grants under § 104.792 is to support activities which show promise of overcoming sex bias and sex stereotyping in vocational education.

(Secs. 130(b)(6), 136; 20 U.S.C. 2350, 2356.)

§ 104.792 Conformity with five-year State plan.

(a) A State may use funds available under section 130 of the Act to support grants to overcome sex bias and sex stereotyping in vocational education programs.

(Sec. 136; 20 U.S.C. 2356.)

(b) The expenditure of funds for this purpose shall be in accordance with the approved five-year State plan and annual program plan. The plans shall describe the types of projects to be funded.

(Sec. 130(b); 20 U.S.C. 2350.)

§ 104.793 Types of projects.

Funds may be used for projects such as:

(a) Research projects on ways to overcome sex bias and sex stereotyping in vocational educational programs;

(b) Development of curriculum materials free of sex stereotyping;

(c) Development of criteria for use in determining whether curriculum materials are free from sex stereotyping.

(d) Examination of current curriculum materials to assure that they are free of sex stereotyping; and

(e) Training to acquaint guidance counselors, administrators, and teachers with ways of effectively overcoming sex bias and sex stereotyping, especially in assisting persons in selecting careers ac-

cording to their interests and occupational needs rather than according to stereotypes.

(Implements Sec. 136; 20 U.S.C. 2356.)

Subpart 4—Special Programs for the Disadvantaged

§ 104.801 Grants to States for special programs for the disadvantaged.

A State shall use the funds allocated to it from the separate authorization (section 102(b) of the Act) for special programs for the disadvantaged as defined in § 104.804 and Appendix A of these regulations.

(Sec. 140; 20 U.S.C. 2370.)

§ 104.802 Use of funds.

(a) A State shall use the funds available under § 104.801, in accordance with the approved five-year State plan and annual program plan, for special programs of vocational education for disadvantaged persons in areas of high concentration of youth unemployment or school dropouts.

(b) A State shall use the funds under § 104.801 to pay up to 100 percent of the cost of special programs for disadvantaged persons.

(c) Funds available under § 104.801 may be used in addition to funds made available to the State for basic grants (section 120 of the Act): *Provided,* That the funds are used to conduct special programs of vocational education for the disadvantaged to enable them to succeed in vocational education programs.

(Sec. 140; 20 U.S.C. 2370.)

§ 104.803 Students in nonprofit private schools.

A State may grant funds to eligible recipients only if:

(a) Provision (in accordance with the requirements set forth in § 104.533) has been made for the participation of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or projects involved is to meet, to the extent consistent with the number of such students; and

(b) Effective policies and procedures have been adopted which assure that Federal funds made available under this subpart to accommodate students in nonprofit private schools will not be commingled with State or local funds.

(Sec. 140(b)(2); 20 U.S.C. 2370.)

§ 104.804 Criteria of need and eligibility.

(a) The term "disadvantaged" means persons (other than handicapped persons) who:

(1) Have academic or economic disadvantages; and

(2) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs.

(Sec. 195(16); 20 U.S.C. 2461.)

(b) "Academic disadvantage," for the purposes of this definition of "disadvantaged," means that a person:

(1) Lacks reading and writing skills;

(2) Lacks mathematical skills; or

(3) Performs below grade level.

(c) "Economic disadvantage," for the purposes of this definition of "disadvantaged," means:

(1) Family income is at or below national poverty level;

(2) Participant or parent(s) or guardian of the participant is unemployed;

(3) Participant or parent of participant is recipient of public assistance; or

(4) Participant is institutionalized or under State guardianship.

(Implements Sec. 140; 20 U.S.C. 2370.)

(d) Eligibility for participation in the special programs supported under § 104.801 is limited to persons who (because of academic or economic disadvantage):

(1) Do not have, at the time of entrance into a vocational education program, the prerequisites for success in the program; or who

(2) Are enrolled in a vocational education program but require supportive services or special programs to enable them to meet the requirements for the program that are established by the State or the local educational agency.

(Implements Sec. 140; 20 U.S.C. 2370.)

Subpart 5—Consumer and Homemaking Education

§ 104.901 Grants to States for consumer and homemaking education.

A State shall use the funds allotted to it from the separate authorization (section 102(c) of the Act) for programs of consumer and homemaking education.

(Sec. 150(a); 20 U.S.C. 2380.)

§ 104.902 Use of funds.

A State shall use the funds available under section 150 of the Act, in accordance with its approved five-year State plan and annual program plan, solely for:

(a) Programs in consumer and homemaking; and

(b) Ancillary services in relation to programs under paragraph (a) of this section.

(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.903 Programs in consumer and homemaking education.

(a) Programs in consumer and homemaking education may be conducted at all educational levels (elementary, secondary, postsecondary or adult).

(b) Programs in consumer and homemaking education consist of instructional programs, services, and activities for the occupation of homemaking.

(c) Programs for the occupation of homemaking include (but are not limited to):

(1) Consumer education;

(2) Food and nutrition;

(3) Family living and parenthood education;

(4) Child development and guidance;

(5) Housing and home management (including resource management); and

(6) Clothing and textiles.

(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.904 Purpose of programs in consumer and homemaking education.

A State shall set forth in the five-year State plan and annual program plan the programs in consumer and homemaking education which it intends to support. Funds available under section 150 of the Act shall only be provided to support ed- programs in consumer and homemaking education which:

(a) Encourage participation of both males and females to prepare for combining the roles of homemakers and wage earners;

(b) Encourage elimination of sex stereotyping by promoting the development of curriculum materials which deal with:

(1) Increased numbers of women working outside the home;

(2) Increased numbers of men assuming homemaking responsibilities;

(3) Changing career patterns of men and women; and

(4) Appropriate Federal and State laws relating to equal opportunity in education and employment;

(c) Give greater consideration to economic, social, and cultural conditions and needs, especially in economically depressed areas and, where appropriate, to bilingual instruction;

(d) Encourage eligible recipients to operate outreach programs in communities for youth and adults, giving consideration to their special needs, such as (but not limited to):

(1) The aged;

(2) Young children;

(3) School-age parents;

(4) Single parents;

(5) Handicapped persons;

(6) Educationally disadvantaged persons;

(7) Programs connected with health care delivery systems, such as providing parenthood education, nutrition education and consumer education; and

(8) Programs providing services for courts and correctional institutions, such as providing child development and guidance programs for short term court offenders;

(e) Prepare males and females who have entered or are preparing to enter into the work of the home; and

(f) Emphasize the following areas in order to meet current societal needs:

(1) Consumer education;

(2) Management of resources;

(3) Promotion of nutritional knowledge and food use; and

(4) Promotion of parenthood education.

(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.905 Ancillary services.

A State may use funds available under section 150 of the Act to provide ancillary services, activities, and other means of assuring quality in all consumer and homemaking education programs. These ancillary services may include (but are not limited to): (a) Teacher training; (b) teacher supervision; (c) curriculum development; (d) research; (e) program evaluation; (f) special demonstration

and experimental programs; (g) development of instructional materials; (h) exemplary projects; (i) provision of equipment; (j) State administration and leadership; and (k) guidance and counseling.

(Implements sec. 150(b)(2); 20 U.S.C. 2380.)

§ 104.906 Federal share.

(a) A State shall use funds appropriated under section 102(c) of the Act for section 150 of the Act to pay up to 50 percent of the cost of (1) programs in consumer and homemaking education under §§ 104.903 and 104.904 and (2) ancillary services and activities under §104.905.

(b) A State shall use at least one-third of the funds available as stated in paragraph (a) to pay up to 90 percent of the cost of programs in economically depressed areas or areas with high rates of unemployment for program designed to: (1) Assist consumers; (2) help improve home environments; and (3) help improve the quality of family life.

(Sec. 150(c), (d); 20 U.S.C. 2380.)

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

AUTHORITY: Secs. 101–195 of Title II of Pub. L. 94–482 as further amended by Pub. L. 95–40 (20 U.S.C. 2301 to 2461), unless otherwise noted.

GENERAL

§ 105.1 Scope.

Part 105 contains regulations interpreting or implementing Part B (entitled "National Programs") of Title I of the Vocational Education Act of 1963, as amended by section 202 of Title II of the Education Amendments of 1976, Pub. L. 94–482 (referred to as "the Act"). Part 105 also contains regulations interpreting or implementing the Commissioner's discretionary program of contracts with Indian tribes contained in section 103 (a)(1)(B) of the Act.

(Sec. 103(a)(1)(B); Secs. 171 through 195; 20 U.S.C. 2303, 2401 et seq.)

§ 105.2 Purpose.

The purpose of Part 105 is to set forth the regulations which govern the Commissioner's discretionary programs of grants and contracts for vocational education.

(Secs. 171 through 195; 20 U.S.C. 2401 et seq.)

§ 105.3 Definitions.

The definitions common to all parts of the Act are contained in section 195 of the Act. These definitions and additional definitions necessary for the State vocational education programs are set forth in Appendix A of Part 104. Definitions necessary only for Part 105 are set forth in this Part 105 in the subparts in which they apply.

(Sec. 195; 20 U.S.C. 2461.)

§ 105.4 Applicability of General Education Provisions Regulations.

Provisions in Parts 100 and 100a of the General Education Provisions Regulations (45 CFR Parts 100 and 100a), entitled "General Provisions for Office of Education Programs," are applicable to programs under this Part 105.

(45 CFR Parts 100, 100a.)

§ 105.5 Applicability of technical review criteria.

(a) The technical review criteria in § 105.110 for Program Improvement and in § 105.626 for Bilingual Vocational Instructional Materials, Methods, and Techniques Program apply to the review of applications submitted for grants only.

(b) The evaluation of proposals submitted for procurement contracts for the two programs identified in paragraph (a) of this section are made in accordance with the Federal Procurement Regulations, Title 41, Code of Federal Regulations, Chapters 1 and 3. Technical review criteria that are consistent with the Act will be developed for each procurement contract and will be set forth specifically in the Request for Proposal (RFP) for the particular contract. These criteria will be consistent with the Act and the regulations. The RFP will be announced in the Commerce Business Daily (CBD).

(45 CFR Chapters 1 and 3.)

Subpart 1—Program Improvement

§ 105.101 Purpose.

The purpose of program improvement is to support projects for the improvement of vocational education and a national center for research in vocational education as authorized in section 171 of the Act. Funds available to the Commissioner for program improvement under section 103 of the Act will be used primarily for contracts and in some cases for grants.

(Secs. 103, 171; 20 U.S.C. 2303, 2401.)

§ 105.102 National center for research in vocational education.

(a) The Commissioner will support a national center for research in vocational education. The center (a nonprofit agency) will be chosen once every five years. The Commissioner will appoint an advisory committee to assist the center. The center shall have such research locations, including contracts with one or more regional research centers, as shall be determined by the Commissioner after consultation with the national center and its advisory committee taking into consideration the vocational education research resources available, geographical area to be served, and the schools, programs, projects, and students and areas to be served by research activities.

(b) The center shall directly or through other public agencies:

(1) Conduct applied research and development on problems of national significance in vocational education;

(2) Provide leadership development through an advanced study center and in-service education activities for State and local leaders in vocation education;

(3) Disseminate the results of research and development projects funded by the center;

(4) Develop and provide information to facilitate national planning and policy development in vocational education;

(5) Act as a clearinghouse for information on projects supported by the States and the Commissioner and compile an annotated bibliography of research, exemplary and innovative projects, and curriculum development projects assisted with funds made available under this Act since July 1, 1970; and

(6) Work with States, local educational agencies, and other public agencies in developing methods of evaluating programs, including the follow-up studies of program completers and leavers required by section 112 of the Act, so that these agencies can offer job training programs which are more closely related to the types of jobs available in their communities, regions, and States.

(Sec. 171(a)(2); 20 U.S.C. 2401.)

§ 105.103 Armed services curriculum materials.

The Commissioner will make contracts to convert to use in local educational agencies, private nonprofit schools, and other public agencies curriculum materials involving job preparation which have been prepared for use by the armed services of the United States.

(Sec. 171(b)(3); 20 U.S.C. 2401.)

§ 105.104 Authorized activities.

(a) The Commissioner will support projects of national significance for improvement of vocational education. The projects include the following activities as authorized in sections 131 through 136 of the Act:

(1) Research (section 131 of the Act);

(2) Exemplary and innovative programs (section 132 of the Act);

(3) Curriculum development (section 133 of the Act);

(4) Vocational guidance and counseling (section 134 of the Act);

(5) Vocational education personnel training (section 135 of the Act); and

(6) Grants to assist in overcoming sex bias and sex stereotyping (section 136 of the Act).

(b) Functions under the above may include: applied research and development; experimental and pilot programs; curriculum revision and development; demonstration, dissemination, and utilization of research and development products; personnel training; and evaluation.

(Secs. 131 through 136, 171(a)(1); 20 U.S.C. 2351–56, 2401.)

§ 105.105 Eligible applicants.

(a) Eligible applicants for project support include:

(1) Public organizations, institutions, and agencies;

(2) Nonprofit and profit-making private organizations, institutions, and agencies; and

(3) Individuals.

(b) Profit-making private organizations, institutions, and agencies, and individuals are eligible for contracts only.

(c) Eligible applicants for the national center for research in vocational education include nonprofit agencies only.

(Interprets Sec. 171; 20 U.S.C. 2401.)

§ 105.106 Cost sharing.

No cost sharing is required. The Commissioner may pay all or part of the cost.

(Interprets Sec. 171(b)(5)(A); 20 U.S.C. 2401.)

§ 105.107 Duration of project support.

The Commissioner will not support a project for a period to exceed three fiscal years.

(Sec. 171(b)(5)(B); 20 U.S.C. 2401.)

§ 105.108 Improved teaching techniques or curriculum materials.

The Commissioner will not make a grant pursuant to § 105.104 unless the applicant can demonstrate a reasonable probability that the grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of the grant.

(Sec. 171(b)(1); 20 U.S.C. 2401.)

§ 105.109 Exemplary and innovative projects.

(a) The Commissioner will make a contract for an exemplary and innovative project only if the project provides for the participation of students enrolled in nonprofit private schools consistent with:

(1) The number of such students in the area to be served by the project; and

(2) The educational needs of those students is of the type which the project involved is to meet.

(b) The contract shall provide that the Federal funds will not be commingled with State or local funds.

(Sec. 171(b)(2); 20 U.S.C. 2401.)

§ 105.110 Technical review criteria.

The following criteria will be used in reviewing applications. These criteria are consistent with 45 CFR 100a.26, Review of Applications, in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. Applications that receive less than 50 points will not be funded.

(a) *National need.* (Maximum 15 points.) The need section clearly: (1) Describes the national need in vocational education for the proposed project; (2) Provides specific evidence of the need; (3) Indicates specifically who or what will be helped; and (4) Describes the problem rather than symptoms of the problem.

(b) *Literature review.* (Maximum 5 points.) The literature review is sufficiently comprehensive to:

(1) Establish the basis for the problem;

(2) Describe the problem in contrast to the symptoms of the problem;

(3) Provide a strong conceptual framework for the proposed objectives and proposed plan, including the general design and specific procedures of the proposed plan, along with the management, evaluation, dissemination, and training procedures, when appropriate; and

(4) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.

(c) *Objectives.* (Maximum 10 points.) The objectives are related to the problem and: (1) Are significant for vocational education; (2) Clearly describe proposed project outcomes; (3) Are capable of being attained; and (4) Are measurable.

(d) *Plan.* (Maximum 18 points.) The plan clearly describes: (1) The overall design for the proposed project; and (2) The specific procedures by which each objective will be accomplished. Normally the plan will include:

(i) Precise definitions of terms; (ii) Description of the characteristics and number of subjects; (iii) Sampling procedures and control groups; (iv) Instru-

mentation; and (v) Statistical and analytical procedures.

(e) *Management plan.* (Maximum 8 points.) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(f) *Evaluation plan.* (Maximum 8 ponts.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.

(g) *Results, end products, outcomes, and dissemination.* (Maximum 10 points.) The application clearly describes:

(1) What will be delivered to the government; (2) The format in which the results, products, or outcomes will be delivered to the government;

(3) The way in which results, products, or outcomes will be developed or provided for dissemination purposes to specified user populations; and

(4) The procedures to be used in disseminating the results, end products, or outcomes at the local, State, and/or national levels.

(h) *Staff competencies and experience.* (Maximum 7 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and consultants;

(2) Time commitments planned for the project by the project director, key staff, advisory groups, and consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects;

(4) Use of professional staff members from minorities or women; and

(5) The competencies that are required for the proposed project.

(i) *Budget and cost effectiveness.* (Maximum 7 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective with respect to proposed results, products, or outcomes.

(j) *Institutional capability and commitment.* (Maximum 4 points.) The application provides adequate evidence of:

(1) Institutional or individual's experience and commitment to the proposed work;

(2) Appropriate facilities and equipment; and

(3) Assurance of support from cooperating agencies, local educational agencies, postsecondary institutions, business, industry, and labor, where applicable for successful implementation of the project.

(k) *Sex bias and stereotyping.* (Maximum 8 points.) The application provides appropriate plans to eliminate sex bias and stereotyping in the proposed results, end products, and outcomes, and the proposed dissemination plans.

(Implements Sec. 171; 20 U.S.C. 2401.)

§ 105.111 Additional application review factors.

In addition to the criteria listed in § 105.110, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications: (a) Duplication of effort; (b) Duplication of funding; and (c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 171; 20 U.S.C. 2401.)

Subpart 2—Indian Tribes

Contract Program for Indian Tribes and Indian Organizations

§ 105.201 Purpose.

The purpose of the program for Indian tribes and Indian organizations is for the Commissioner, at the request of an Indian tribe, to make a contract or contracts directly with Indian tribal organizations, with funds available under section 103(a)(1) of the Act, to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the Act, particularly section 103(a)(1)(B)(iii) of the Act.

(Sec. 103(a)(1); 20 U.S.C. 2303.)

§ 105.202 Applicability of the Indian Self-Determination Act of 1975.

(a) Any contract entered into under this subpart is subject to the provisions of sections 4, 5, 6, 7(b) and 102 of the "Indian Self-Determination and Education Assistance Act of 1975," Pub. L. 93-638.

(b) Regulations implementing the above sections of the Indian Self-Determination and Education Assistance Act, Title 25 of the Code of Federal Regulations, §§ 271.44, 271.46, 271.47, and 271.50 are applicable to the extent that they are relevant and practicable.

(c) Whenever the term "Secretary of the Interior" is used, in the Indian Self-Determination and Education Assistance Act, the term means, for the purposes of this subpart, "Commissioner of Education."

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450a, et seq.)

§ 105.203 Definitions.

(a) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(b) "Tribal organization" means the recognized governing body of any Indian tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by the organization and which includes the maximum participation of Indians in all phases of its activities.

(25 U.S.C. 450b.)

§ 105.204 Assistance contracts.

Awards will be made competitively through assistance contracts governed by Subchapter A of Title 45, Code of Federal Regulations (entitled "General Provisions for Office of Education Programs"), except to the extent that appropriate sections of the Indian Self-Determination and Education Assistance Act of 1975 apply or to the extent that more specific regulations in this subpart apply. The criteria in 45 CFR 100a.26(b) do not apply to this program.

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450e(b).)

§ 105.205 Eligible applicants.

An Indian tribal organization of an Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934, is eligible for assistance contracts.

(Sec. 103(a)(1)(B)(iii)); 20 U.S.C. 2303; 25 U.S.C. 450f.)

§ 105.206 Applications for assistance contracts.

An application from an eligible tribal organization must be submitted to the Commissioner by the Indian tribe and must contain the information that the Commissioner requires. An application which serves more than one Indian tribe shall be approved by each tribe to be served in the application.

(Sec. 103(a)(1)(B)(iii); Pub. L. 93-638; 20 U.S.C. 2303; 25 U.S.C. 450b(c).)

§ 105.207 Review for duplication of effort.

An applicant shall submit a copy of the application directly to the Commissioner of the Bureau of Indian Affairs and the State board at the same time it submits an application to the Office of Education in order to avoid duplication of funding.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303.)

§ 105.208 No cost sharing.

No cost sharing by the applicant is required.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303.)

§ 105.209 Duration of awards.

(a) The total project period of an award may not exceed three years. The Commissoner may make multi-year awards if the nature of the project warrants multi-year funding. Continuation funding is contingent upon satisfactory performance. Application for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.

(b) A request for continuation of a project beyond the project period will

be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

(Implements Sec. 103(a)(1)(B)(iii); 45 CFR 100a.432; 20 U.S.C. 2303.)

§ 105.210 Final reports.

The contractor shall submit final financial status and performance reports as the Commissioner shall request.

(45 CFR 100a.403; 45 CFR 100a.432; 20 U.S.C. 2303.)

§ 105.211 Technical review criteria.

The following criteria will be utilized in reviewing applications. These criteria are consistent with 45 CFR 100a.26(b), Review of Applications, in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum aggregate score for the criteria is 100 points, and the maximum weight for each criterion is listed below in parentheses. Points will be awarded to the extent that evidence in the application satisfies each criterion. The review of these criteria shall constitute the basis for the Commissioner to enter or decline to enter into a contract with an eligible applicant. If the review of any application results in no recommendation to fund (where funds are available), this will mean that it is not satisfactory, as that term is used in the Indian Self-Determination Act (section 102). Applications must receive a minimum of 30 points to be considered for funding.

(25 U.S.C. 450f.)

(a) *Program improvement.* (Maximum 15 points.) The application focuses on the improvement of occupational training opportunties for Indians and delineates the way in which the proposed program will contribute to improved programs for the specific target group.

(b) *Need.* (Maximum 10 points.) The need section clearly: (1) Describes the need for the proposed activity; (2) Provides specific evidence of the need; (3) Indicates specifically how the need will be met; and (4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(c) *Objectives.* (Maximum 10 points.) The objectives: (1) Relate to the need; (2) Are significant for vocational education; (3) Clearly describe proposed program outcomes;

(4) Are capable of being attained; and

(5) Are measurable.

(d) *Plan.* (Maximum 15 points) The plan clearly describes the way in which the objectives will be accomplished by: (1) The overall design for the proposed program; and

(2) The use of specific procedures to implement activities designed to accomplish each objective of each segment of the proposed program;

(3) A description of: (i) Specific activities to be conducted in the proposed program;

(ii) Instruments to be used in the proposed program;

(iii) Instructional material to be used in the proposed program, if appropriate; and

(iv) Population to be served in the proposed program; and

(4) Statistical and analytical procedures, if appropriate.

(e) *Management plan.* (Maximum 10 points) The management plan adequately describes the way in which personnel and resources will be utilized to accomplish each objective, the overall design, and each major procedure.

(f) *Evaluation plan.* (Maximum 10 points.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results in terms of the achievement of project goals and objectives.

(g) *Applicant's staff competencies and experience.* (Maximum 10 points.) Points will be awarded on the extent to which the application clearly describes: (1) The competencies that are required for the proposed project;

(2) The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and any consultants;

(3) Time commitments planned for the project by the project director, key staff, advisory groups, and any consultants;

(4) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects;

(5) Evidence of commitment to section 7(b) of the Indian Self-Determination and Education Assistance Act.

(h) *Budget and cost effectiveness.* (Maximum 10 points.) Points will be awarded on the extent to which the application provides a justifiable and itemized statement of cost which contains line items in the proposed budget and appears to be cost effective with respect to proposed results.

(i) *Institutional capability and commitment.* (Maximum 10 points.) The application provides adequate evidence of: (1) Institutional experience and commitment to the proposed work;

(2) Appropriate facilities and equipment; and

(3) Documented assurances of support from cooperating local educational agencies, postsecondary institutions, business, industry, or labor, if support from any of these groups is necessary for successful implementation of the project.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450f.)

§ 105.212 Additional factors for declining to contract.

In addition to the weighted technical review criteria listed in § 105.211, the Commissioner may use any of the factors listed below in making a decision whether to decline to enter into a contract with an eligible applicant.

(a) The program duplicates an effort already being made;

(b) Funding the program would create an inequitable distribution among tribes; or

(c) The applicant has not performed satisfactorily under a previous Office of Education award.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450f.)

§ 105.213 Hearing by the Commissioner after declining to enter into a contract.

After receiving notice from the Commissioner that the Office of Education will not award a contract to an eligible applicant, the tribal organization or the tribe shall have 30 calendar days to request a hearing, in writing, to review the Commissioner's decision.

(25 U.S.C. 450f.)

§ 105.214 Remaining funds.

From any remaining funds reserved for this subpart, the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians as described in section 103(a)(B)(i) of the Act. The Secretary of the Interior is authorized to receive funds for that purpose.

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303.)

Subpart 3—Training and Development Programs for Vocational Education Personnel

Leadership Development Award Program

§ 105.301 Purpose.

The purpose of the leadership development award program is to provide opportunities for experienced vocational educators to spend full time in advanced study of vocational education.

(Sec. 172(a)(1); 20 U.S.C. 2402.)

§ 105.302 Leadership development awards.

(a) *Awards.* The Commissioner will make leadership development awards to qualified vocational education personnel (such as administrators, supervisors, teacher educators, researchers, guidance and counseling personnel, and instructors in vocational education) for graduate training in an approved vocational education leadership development program of an approved institution of higher education.

(Sec. 172(b)(1), (3); 20 U.S.C. 2402.)

(b) *Award period.* Leadership development awards will be made for a period not to exceed 36 months.

(Sec. 172(b)(2)(A); 20 U.S.C. 2402.)

§ 105.303 Equitable geographical distribution.

In order to meet the needs for qualified vocational educational personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after

applications have been reviewed and scored on their merits, will make leadership development awards in an equitable manner among the States. The Commissioner will take into account such factors as:

(a) The State's vocational education enrollments; and

(b) The incidence of youth unemployment and school dropouts in the State.

(Sec. 172(b)(4); 20 U.S.C. 2402.)

§ 105.304 Eligibility of individuals.

(a) A person is eligible to receive a leadership development award if such person:

(1) Has had not less than two years of experience in vocational education or in business or industrial training or military technical training, or in the case of researchers, experience in social science research which is applicable to vocational education; and

(2) Is currently employed or is reasonably assured of employment in vocational education and has successfully completed, as a minimum, a baccalaureate degree program; and

(3) Is recommended by his or her employer, or others, as having leadership potential in the field of vocational education and is eligible for admission as a graduate student to a program of higher education approved by the Commissioner under § 105.311.

(b) In order to receive a leadership development award the person selected shall enroll for full-time graduate study in a vocational education leadership development program approved under § 105.311.

(Sec. 172(b)(1), (5); 20 U.S.C. 2402.)

§ 105.305 Application procedures.

(a) *Submission of applications.* Any eligible individual who wishes to receive a leadership development award shall submit an application to the Commissioner and send one copy of the application to the State board for vocational education for the State in which the applicant is a resident.

(b) *Role of the State board.* The State board, with advice from the State advisory council, from other agencies involved in State planning and reporting, and from representatives of vocational education programs in institutions of higher education, will:

(1) Review the application;

(2) Collect advice as to the merits of each application from the other agencies and the representatives noted in this paragraph;

(3) Advise the Commissioner as to the merits of each application; and

(4) Forward all applications and statements of advice to the Commissioner for review and decision by the Commissioner.

(Implements Sec. 172(a)(1); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, pp. 54-55.)

§ 105.306 Stipends to individuals.

(a) *Academic year.* Each person awarded a leadership development award is entitled to receive a stipend of:

(1) $4500 for each academic year of full-time study at the institution of higher education; and

(2) $675 for each academic year for each dependent.

(b) *Summer session.* An additional stipend may be awarded of:

(1) $900 for full-time summer study at the same institution of higher education; and

(2) $170 for this period for each dependent.

(Implements Sec. 172(b)(2)(A); 20 U.S.C. 2402.)

§ 105.307 Conditions for continued eligibility.

(a) *Satisfactory participation.* A recipient of an award may continue to receive payments under § 105.306 only during such periods as the Commissioner finds that the recipient:

(1) Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;

(2) Is devoting essentially full time to such study or research; and

(3) Is not engaging in gainful employment, other than part-time employment in teaching, research, or similar activities endorsed by that institution and approved by the Commissioner.

(Sec. 172(b)(5); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, pp. 55-56.)

(b) *Employment limitation.* The limitation with respect to employment set forth in paragraph (a)(3) of this section does not apply to the period of time between an academic year and a summer session (or between academic years if a stipend is not received under § 105.306(b) for full-time study).

(Implements Sec. 172(b)(5); 20 U.S.C. 2402.)

§ 105.308 Payment conditioned on appropriation.

Leadership development award payments under § 105.306 after the first year of the award period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(Interprets Sec. 172; 20 U.S.C. 2402.)

§ 105.309 Technical review criteria.

The Commissioner will use the following criteria in reviewing applications. The criteria in 45 CFR 100a.26(b) do not apply to this program. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criteria. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 50 points to be considered for funding.

(a) *Academic ability.* (Maximum 30 points) The applicant provides evidence of his or her academic ability. This must include: (1) Transcripts of grades earned in college, including graduate courses; and may include (2) Scores earned on the Graduate Record Examination, Miller Test of Analogies, or similar tests; and (3) Results earned on specific skill aptitude tests.

(b) *Leadership potential.* (Maximum 20 points). The applicant provides evidence of leadership potential. This may include awards or recognition received for; (1) Professional service; (2) Community activities; (3) Work with advisory committees; (4) Volunteer work; (5) Outstanding skill in interpersonal relations; and (6) Other activities as appropriate.

(c) *Managerial skills.* (Maximum 15 points) The applicant provides information concerning his or her experience in a managerial or administrative capacity. This may include evidence of the applicant's ability in: (1) Planning; (2) Problem solving; (3) Decision making; and (4) Other skills, where appropriate.

(d) *Communication skills.* (Maximum 20 points) The applicant provides evidence of experience in activities requiring oral and written language skills. This may include:

(1) Public speaking experience to professional, community, or other groups;

(2) Articles published in professional or popular journals; and

(3) Other written materials such as reports, abstracts, and instructional materials.

(e) *National need.* (Maximum 15 points.) The degree to which the applicant's goals, objectives, and aspirations in vocational education relate to national needs in vocational education, including developing expertise to serve: (1) disadvantaged persons; (2) members of minority groups, and (3) handicapped persons.

(H.R. Rept. No. 94-1085, p. 55.)

(g) *Additional criteria.* In addition to the criteria listed above the Commissioner will consider the following factors: (1) Equitable distribution among males and females; (2) Geographical distribution; (3) Membership in minority groups.

(Implements Sec. 172(a)(1); 20 U.S.C. 2402; U.S.C. 2402; H.R. Rept. No. 94-1085, p. 55.)

§ 105.310 Assignment to approved institution.

Each applicant for an award shall identify a first, second, and third choice of institutions (approved under § 105.311) he or she desires to attend. The Commissioner reserves the right to redistribute award recipients among approved institutions in order to assure that each institution will have a sufficient number of awardees to assure the effectiveness of the program of vocational leadership development.

(Implements Sec. 172(a)(1); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, p. 55.)

§ 105.311 Institutional eligibility and approval.

Upon receipt of an application from an institution of higher education requesting approval of its vocational education leadership development program,

the Commissioner will approve the program only upon finding that:

(a) The institution offers a comprehensive program in vocational education with adequate supporting services and disciplines, such as education administration, guidance and counseling, research, and curriculum development, including:

(Sec. 172(b) (3) (A); 20 U.S.C. 2402.)

(1) Training in those leadership skills necessary to increase the participation of disadvantaged and underrepresented persons such as the handicapped, disadvantaged minorities, and women, in vocational education programs at all levels;

(Sec. 101(1); 20 U.S.C. 2301; H.R. Rept. No. 94-1085, p. 55.)

(2) Resources and supporting services for at least five of the generally recognized fields of vocational education, integrated into a comprehensive approach to vocational education;

(3) Practical experience and internship components; and

(Implements Sec. 172(b) (3) (A); 20 U.S.C. 2402.)

(4) A focus on familiarizing the individual with new curriculum materials in vocational education.

(Sec. 172(b) (7); 20 U.S.C. 2402.)

(b) The program under paragraph (a) of this section is designed to further substantially the objective of improving vocational education by providing opportunities for graduate training for vocational education teachers, supervisors, guidance and counseling personnel, and administrators, and of university level vocational education teacher educators and researchers.

(c) The program is conducted by a school of graduate study.

(Interprets Sec. 172(b) (3) (B); 20 U.S.C. 2402.)

§ 105.312 Institutional allowance.

(a) The Commissioner will (in addition to the stipend paid to an award recipient under § 105.306) pay an institutional allowance to the institution of higher education in which the recipient is pursuing a course of study, in the amount of $3,200 per participant, per academic year, with an additional $800 per participant for full-time study during the summer session.

(b) The institutional allowance is made in lieu of tuition and all non-refundable fees and deposits that would otherwise be required of the student.

(c) Any portion of the institutional allowance in excess of normal tuition, non-refundable fees, and deposits attributable to the awardee shall be used by the institution to improve the program of vocational education leadership development in that institution.

(Implements Sec. 172(b) (2) (B); 20 U.S.C. 2402.)

VOCATIONAL EDUCATION CERTIFICATION FELLOWSHIP PROGRAM

§ 105.431 Purpose.

The purpose of the vocational education certification fellowships is to provide opportunities for:

(a) Certified teachers who have been trained to teach in other fields to become vocational educators if those teachers have skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

(Sec. 172(a) (2); 20 U.S.C. 2402.)

(b) Persons in industry, business, and agriculture who have skills and experience in vocational fields for which there is need for vocational educators (but who do not necessarily have baccalaureate degrees) to become vocational educators.

(Interprets Sec. 172(a) (3); 20 U.S.C. 2402.)

§ 105.432 Awards to two categories of fellows.

The Commissioner is authorized to award fellowships to two categories of persons for undergraduate study in institutions of higher education:

(a) Persons who are or have been certified by a State as teachers in elementary and secondary schools, community and junior colleges, and other thirteenth and fourteenth year programs within the ten-year period prior to the current closing date for applications under this program and who:

(1) Have or have had skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

(2) Are unable to find employment in their field of previous training.

(Sec. 172(c) (1), (c) (1) (A); 20 U.S.C. 2402.)

(b) Persons (not necessarily baccalaureate degree holders) employed in industry, business, or agriculture who:

(1) Have skills and experience in vocational fields in which there is a need for vocational educators; and

(2) Have been accepted by a teacher training institution for enrollment in a program which will assist them in becoming vocational educators.

(Sec. 172(c) (1) (B); 20 U.S.C. 2402.)

§ 105.433 Fellowship period.

Fellowships will be made for periods not to exceed 24 months.

Sec. 172(c) (2) (A); 20 U.S.C. 2402.)

§ 105.434 Application procedures.

(a) *Submission of applications.* Any eligible individual who wishes to receive a vocational education certification fellowship shall submit an application to the Commissioner and send one copy of the application to the State board for vocational education for the State in which the applicant is a resident.

(b) *Role of the State board.* The State board, with advice from the State advisory council, from other agencies involved in State planning and reporting, and from representatives of vocational education programs in institutions of higher education, will:

(1) Review the applications;

(2) Collect advice as to the merits of each application;

(3) Advise the Commissioner as to the merits of each application; and

(4) Forward all applications and statements of advice to the Commissioner for review and decision by the Commissioner.

(Implements Sec. 172(c) (1); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, p. 54.)

§ 105.435 Equitable geographical distribution.

In order to meet the needs for qualified vocational education personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after applications have been reviewed and scored on their merits will make certification fellowship awards in an equitable manner among the States, taking into account such factors as:

(a) The State's vocational education enrollment; and

(b) The incidence of youth unemployment and school dropouts in the State.

(Sec. 172(c) (4); 20 U.S.C. 2402.)

§ 105.436 Stipend to fellows.

(a) *Academic year.* Each person awarded a fellowship is entitled to receive a stipend of:

(1) $4500 for each academic year of full-time study at the institution of higher education to which that person is assigned for the fellowship period; and

(2) $675 for each academic year for each dependent.

(b) *Summer session.* An additional stipend may be awarded of:

(1) $900 for full-time summer study at the same institution of higher education; and

(2) $170 for this period for each dependent.

(Implements Sec. 172(c) (2) (A); 20 U.S.C. 2402.)

§ 105.437 Conditions for continued eligibility.

(a) *Satisfactory participation.* A recipient of a fellowship may continue to receive payment under § 105.436 only during such period as the Commissioner finds that the recipient:

(1) Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;

(2) Is devoting essentially full time to such study or research; and

(3) Is not engaging in gainful employment, other than part-time employment in teaching, research, or similar activities endorsed by that institution and approved by the Commissioner.

(Implements Sec. 172(c) (5); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, pp. 55-56.)

(b) *Employment limitations.* The limitation with respect to employment set forth in paragraph (a) (3) of this

section does not apply to the period of time between an academic year and a summer session, or between academic years if a stipend is not received under § 105.436(b) for full-time summer study.

(Interprets Sec. 172(c)(5); 20 U.S.C. 2402.)

§ 105.438 Payment conditioned on appropriation.

Fellowship payments under § 105.436 after the first year of the fellowship period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(Interprets Sec. 172; 20 U.S.C. 2402.)

§ 105.439 Institutional allowance.

(a) The Commissioner will (in addition to the stipends paid to a fellowship recipient under § 105.436) pay an institutional allowance to the institution of higher education at which the recipient is pursuing his or her course of study in an amount of $2,000 per participant per academic year, with an additional $500 per participant for full-time study during the summer session;

(b) The institutional allowance is made in lieu of tuition and all non-refundable fees and deposits that would otherwise be required of the fellow; and

(c) Any portion of the institutional allowance in excess of the normal tuition, non-refundable fees, and deposits attributable to the fellow shall be used by the institution to improve the program of vocational education in that institution.

(Implements Sec. 172(c)(2)(B); 20 U.S.C. 2402.)

§ 105.440 Institutional eligibility and approval.

The Commissioner will approve the vocational education fellowship program of an institution of higher education only upon finding that:

(a) The program is capable of enabling unemployed certified teachers or persons from business, industry, or agriculture to become certified vocational education teachers;

(Interprets Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

(b) The institution offers a program in vocational education which is sufficiently comprehensive to meet, at the undergraduate level, the requirements for certification of the applicant in the State where the institution is located;

(c) In the case of applicants seeking certification in a particular area of study designated by the Commissioner as being in need of additional personnel, the institution is capable of preparing students for certification in that particular area;

(Implements Sec. 172(c)(7); 20 U.S.C. 2402.)

(d) The fellow will receive education and training of the same type as that offered by the institution to undergraduate students preparing to become vocational education teachers; and

(e) The undergraduate program in vocational education includes adequate support services and disciplines, such as education administration, guidance and counseling, special education for the handicapped, research, and curriculum development.

(Implements Sec. 172(c)(3); 20 U.S.C. 2402.)

§ 105.441 Teaching fields in need of additional teachers.

The Commissioner will publish, before the beginning of each fiscal year, a listing of the areas of teaching in vocational education where there are or will be shortages of personnel and will, to the maximum degree possible, award fellowships under § 105.432 to applicants seeking to become teachers in the areas identified.

(Sec. 172(c)(7); 20 U.S.C. 2402.)

§ 105.442 Content of applications.

(a) *For certified teachers.* Each certified teacher applicant shall provide in his or her application evidence of:

(1) Certification as a teacher in an elementary or secondary school or junior or community college or other thirteenth and fourteenth grade program within the ten-year period prior to the current closing date for applications under this program; and

(2) Past or current skills and experiences in the vocational field(s) in which there is a need for additional educators and for which he or she seeks training as a vocational educator; and

(3) Inability to find employment in his or her field of previous certification.

(b) *For applicants not certified as teachers.* Each applicant who has not been a certified teacher shall provide in his or her application evidence of:

(1) The nature and duration of his or her employment in business, agriculture, or industry; and

(Interprets Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

(2) Having skills and experiences in one of the vocational areas where vocational educators are needed.

(Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

(c) *Assurance by the institution.* The institution of higher education designated in the application for a fellowship shall provide in that application an assurance that the:

(1) Applicant has been accepted for enrollment in the program of vocational education designated in the application; and the

(2) Institution meets the requirements for institutional eligibility set forth in paragraphs (a) through (e) of § 105.440.

(Implements Sec. 172(c)(3); 20 U.S.C. 2402.)

§ 105.443 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. The criteria in 45 CFR 100a.26(b) do not apply to this program. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criteria. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 50 points to be considered for funding.

(a) *Academic ability.* (Maximum 25 points.) The applicant provides evidence of his or her level of academic achievement and academic ability. This may include: (1) Transcripts of grades earned in secondary school and, where appropriate, college; (2) Results earned on specific skill aptitude tests; and (3) Results of other tests, where appropriate.

(b) *Vocational skills.* (Maximum 35 points.) The applicant provides evidence of his or her performance in a work situation requiring vocational skills. This may include: (1) Letters of recommendations of previous employers or others, as appropriate; (2) Results of National Occupational Competency Testing Institute, where appropriate; (3) Certificates or diplomas, as appropriate; and (4) Work related experience, including teaching, where appropriate.

(c) *Communication skills.* (Maximum 15 points.) The applicant provides evidence of experience in activities requiring oral and written language skills. This may include:

(1) Public speaking experience to professional, community, or other groups:

(2) Articles published in newspapers, professional or popular journals; and

(3) Other written materials such as reports, abstracts, or other materials, where appropriate.

(d) *Human relations skills.* (Maximum 15 points.) The applicant presents evidence of skills in interpersonal relations. This may include experience with: (1) Professional groups; (2) Community groups; (3) Volunteer groups; (4) Work related organizations; (5) Members of minority groups, the disadvantaged, and handicapped persons; and (6) Other groups, as appropriate.

(e) *National need.* (Maximum 10 points.) The applicant describes in writing his or her goals, objectives, and aspirations in vocational education and their relationship to national needs in vocational education with particular reference to the elimination of sex stereotyping and working with the following populations: (1) Disadvantaged persons; (2) Members of minority groups; and (3) Handicapped persons.

(H.R. Rept. No. 94-1085, p. 55.)

(f) *Additional factors.* In addition to the criteria listed above, the Commissioner will consider the following factors: (1) Equitable distribution among males and females; (2) Geographical distribution; (3) Membership in minority groups; and (4) The applicant's intention to become certified in a vocational field not traditionally open to persons of the applicant's sex, or to become certified in a new field or one not commonly taught.

(Implements Sec. 101(3), 172(b)(4); 20 U.S.C. 2301, 2402; H.R. Rept. No. 94-1085, p. 55.)

Subpart 4—Emergency Assistance for Remodeling and Renovating of Vocational Education Facilities

§ 105.501 Purpose.

The purpose of this program is to provide emergency assistance to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training. The purpose is to assist those local educational agencies in the modernization of facilities or equipment and the conversion of academic facilities necessary to assure that the facilities will be able to offer vocational education programs which give reasonable promise of employment.

(Sec. 191; 20 U.S.C. 2441.)

§ 105.502 Eligible applicants.

(a) Any local educational agency in an urban or rural area is an eligible applicant.

(Sec. 193(a); 20 U.S.C. 2443.)

(b) "Rural area" means an area which is not included within a Standard Metropolitan Area (as defined by the U.S. Bureau of Census) and which is not within or coterminous with, a city, town, borough, or village, or other subcounty political unit, the population of which exceeds 2,500.

(c) "Urban area" means an area within a city, town, or borough with a population of over 100,000.

(Implements Sec. 198(a); 20 U.S.C. 2443.)

§ 105.503 Content of applications.

An application for a grant or assistance contract shall set forth:

(a) A description of the facility to be remodeled or renovated, including:

(1) The date of completion of construction of the facility (or the part of the facility to be remodeled or renovated);

(2) The extent of remodeling or renovation necessary to enable the facility to provide a modern program of vocational education;

(b) A description of the equipment to be replaced or modernized and reference to the particular purpose for which the equipment will be used;

(c) A description of the extent to which the modernization or conversion of facilities and equipment will be consistent with, and further the goals of, the five-year State plan, including the elimination of sex and racial bias and sex stereotyping in vocational education programs;

(d) The financial ability of the local educational agency to undertake the modernization without Federal assistance;

(Implements Sec. 193(a)(1)–(4); 20 U.S.C. 2443.)

(e) Assurance that the facility to be remodeled or renovated will meet standards adopted pursuant to the Architectural Barriers Act;

(Sec. 193(a)(5); 20 U.S.C. 2443; 42 U.S.C. 4151–4156.)

(f) The extent of State and local funds available to match Federal funds together with the sources and amounts of the funds;

(g) Such other information as the State board determines to be appropriate.

(Sec. 193(a) (6), (7); 20 U.S.C. 2443.)

(h) The reasons why renovation or remodeling rather than replacement is planned or why some other facility is not available;

(i) The cost of each major item of renovation or remodeling; and

(j) Facts showing that renovation or remodeling is cost effective.

(Implements Sec. 193(a)(8); 20 U.S.C. 2443.)

§ 105.504 Submission of applications through the State board.

An applicant shall send the application to the Commissioner through the State board.

(Sec. 193(a); 20 U.S.C. 2443.)

§ 105.505 Technical review criteria.

(a) The Commissioner will rank all applicants according to their relative need for assistance.

(Sec. 193(C); 20 U.S.C. 2443.)

(b) The relative need for assistance will be determined by the following criteria (total 100 points):

(1) The age or obsolesence of the facilities and equipment for which assistance is sought (maximum 17 points);

(2) The rate of youth unemployment in the labor market area served by the local educational agency (maximum 12 points);

(3) The number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency who are unemployed (maximum 12 points);

(4) The percentage such youth represent, as compared with the vocational education enrollment in the local educational agency (maximum 12 points);

(5) The ability of the facility to comply with the standards adopted pursuant to the Architectural Barriers Act (maximum 5 points);

(Sec. 193(b)(1) (A) through (E); 20 U.S.C. 2443; 42 U.S.C. 4151 through 4156.)

(6) The need for the proposed facilities or equipment in relation to the employment needs of the State or labor market area (maximum 12 points);

(7) Adequacy of the proposed facilities or equipment for the training or educational requirements of the specific vocational training program(s) to be accommodated by the proposed facilities or equipment (in terms of linedrawings and educational specifications) (maximum 10 points);

(8) Evidence that the proposed renovation or remodeling or equipment is economical and is not elaborate or extravagant (maximum 5 points);

(9) Evidence that the planned renovation or remodeling is a more cost-effective approach than replacement (maximum 5 points); and

(10) Evidence that the local educational agency does not have the financial ability to undertake the proposed project without Federal assistance, and the ability of the State education agency and the local education agency to match proposed Federal funds (maximum 10 points).

(Implements, Sec. 192(b)(1); 20 U.S.C. 2442.)

(c) In approving applications, the Commissioner will consider the degree to which the modernization of facilities and equipment proposed in the application affords promise of achieving the goals set forth in the approved five-year State plan.

(Sec. 193(b)(2); 20 U.S.C. 2443.)

§ 105.506 Payments to local educational agencies.

(a) The Commissioner will pay 75 percent (except as noted in paragraph (b)) of the cost of approved applications in the order they are ranked under § 105.505(b).

(Sec. 193(c); 20 U.S.C. 2443.)

(b) The Commissioner may waive the 75 percent limit and may pay up to the full cost of the project upon the Commissioner's finding, in writing, that a local educational agency with an approved application is suffering from extreme financial need and cannot, because of the 75 percent limit, participate in the program.

(Sec. 193(e); 20 U.S.C. 2443.)

(c) Applications will be funded until the appropriation is exhausted.

(d) The Commissioner will reserve from the appropriation for the fiscal year for which the application is made an amount sufficient to pay the entire Federal share of each approved project and will obligate that amount from the appropriation even though the project may not be completed within the fiscal year.

(Interprets Sec. 194(a); 20 U.S.C. 2444.)

(e) The Commissioner will pay approved applicants in advance or by way of reimbursement, or in installments consistent with HEW practices.

(Sec. 194(b); 20 U.S.C. 2444.)

§ 105.507 Construction requirements.

The Office of Education's regulations for the Commissioner's direct project grant and contract programs (45 CFR Part 100a shall apply to projects for assistance under this program, particularly the Commissioner's regulations on "Bonding and Insurance" (45 CFR Part 100a, Subpart J, §§ 100a.120–122) and on "Construction Requirements" (Subpart K, §§ 100a.155–192), (45 CFR Part 100a). In addition, the non-discrimination provisions in 45 CFR Part 80 apply. This includes 45 CFR 80.3(b)(3) which provides that, in determining the site or location of the facility, a recipient may not make selections with the effect of excluding individuals from, denying them the bene-

fits of, or subjecting them to discrimination on the grounds of race, color, or national origin.

(Implements Sec. 193; 20 U.S.C. 2443.)

Subpart 5—Bilingual Vocational Education

BILINGUAL VOCATIONAL TRAINING PROGRAM

§ 105.601 Purpose.

The purpose of the bilingual vocational training program is to prepare persons of limited English-speaking ability to perform adequately in an environment requiring English language skills and to fill the critical need for more and better trained persons in occupational categories vital to both the persons and the economy. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational training programs.

(Sec. 181; 20 U.S.C. 2411; Conf. Rept. No. 94-1701, p. 228.)

§ 105.602 Eligible programs.

Sixty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of operating programs designed to carry out the purposes set forth in § 105.601 in an amount equal to the total sum expended by the applicant for the purposes set forth in the application. No cost sharing is required. These programs include:

(a) Bilingual vocational training programs for persons who have completed or left elementary or secondary school. Programs for secondary school students are not eligible;

(b) Bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing employment needs, expand their range of skills, or advance in employment.

Training allowances for participants in bilingual vocational training programs described in paragraphs (a) and (b) of this section are an allowable cost. Allowances are subject to the same conditions and limitations as set forth in the Department of Labor Regulations 29 CFR 95.34. Applicants may waive training allowances in accordance with the waiver procedure in 29 CFR 95.34(j).

(Sec. 185; 20 U.S.C. 2415.)

§ 105.603 Eligible applicants.

The following agencies or institutions are eligible for grants or contracts, except item (f) being eligible only for contracts:

(a) Local educational agencies;

(b) State agencies;

(c) Postsecondary educational institutions;

(d) Private nonprofit vocational training institutions; and

(e) Nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English; and

(f) Private for profit agencies and organizations.

(Sec. 184; 20 U.S.C. 2414.)

§ 105.604 Applications for grants or contracts.

(a) An applicant shall submit a copy of the application to the State board at the same time it is submitted to the Office of Education. The State board shall submit its comments to the Office of Education within 30 days after the closing date for applications.

(b) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(c) An applicant shall set forth a bilingual vocational training program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes described in § 105.601.

(d) An applicant shall provide an assurance that the program will include instruction in the English language and in the trainee's dominant language in order to insure that participants in the training will be assisted to pursue occupations in work environments where English is the language normally used.

(e) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) shall include an evaluation of the previous project and will be reviewed competitively with new applications.

(Sec. 184; 20 U.S.C. 2414; Sec. 189A(b); 20 U.S.C. 2420.)

§ 105.605 Review of applications.

(a) The Commissioner may approve an application for assistance under the bilingual vocational training program only if the application:

(1) Meets the requirements set forth in § 105.604;

(2) Is consistent with the criteria set forth in § 105.606; and

(3) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the FEDERAL REGISTER.

(b) Prior to making awards in a State, the Commissioner will, where feasible, consult with the State board to achieve equitable distribution of assistance among populations of persons of limited English-speaking ability with the most acute need for training within the State.

(Sec. 189A, 189B(a)(3); 20 U.S.C. 2420, 2421.)

§ 105.606 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100a.26, Review of Applications in the Office of Education, General Provisions for Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 30 points to be considered for funding.

(a) *Need.* (Maximum 10 points.)

(1) Describes the need for the proposed bilingual vocational training;

(2) Provides specific evidence of the need;

(3) Indicates specifically how the need will be met; and

(4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points.)

(1) Are significant and meet clearly identified needs in bilingual vocational training;

(2) Clearly describe the proposed project outcomes; and

(3) Are capable of being measured and attained.

(c) *Plan.* (Maximum 15 points.) The plan clearly describes the way in which the objectives will be accomplished by:

(1) The overall design for the proposed project; and

(2) The specific procedures of each segment of the design. Normally the plan will include a description of:

(i) Proposed trainees;

(ii) Recruiting procedures to be used;

(iii) Training program including a description of both the bilingual vocational training and the language instruction which is designed to assure that trainees will acquire sufficient competency in English to work in environments where English is the language normally used;

(iv) Support services to be offered to trainees;

(v) Instructional materials to be used in the proposed program;

(vi) Anticipated level of skill of the trainees at the end of the proposed training;

(vii) Activities to be used in aiding trainees to secure employment, if appropriate; and

(viii) Tests to be used in the proposed program components.

(d) *Management plan.* (Maximum 8 points.) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(e) *Evaluation plan.* (Maximum 12 points.) The plan includes valid and reliable procedures for assessing and documenting the bilingual vocational training program and the progress of the trainees.

(f) *Applicant's staff competencies and experience.* (Maximum 25 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, professional staff, consultants, and advisory groups;

(2) Time commitments planned for the project director, staff, advisory groups, and any consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential for the proposed project including proficiency in the language of the trainees.

(g) *Budget and cost effectiveness.* (Maximum 10 points.)

(1) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and is cost effective;

(2) The application includes information concerning the average cost per trainee.

(h) *Institutional capability and commitment.* (Maximum 10 points.) The application provides adequate evidence of:

(1) Institutional experience and commitment to the proposed work;

(2) Appropriate facilities and equipment necessary for the proposed project; and

(3) Documented assurance of support from cooperating agencies, institutions, or community groups where applicable for successful implementation of the project.

(Implements Sec. 189A; 20 U.S.C. 2420.)

§ 105.607 Additional application review factors.

In addition to the criteria listed in § 105.606, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications. (a) Duplication of effort; (b) Duplication of funding; and (c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 181; 20 U.S.C. 2411.)

BILINGUAL VOCATIONAL INSTRUCTOR TRAINING PROGRAM

§ 105.611 Purpose.

The purpose of the bilingual vocational instructor training program is to provide training programs to meet the critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate instruction of persons handicapped by their limited English-speaking ability. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational instructor training programs.

(Sec 186; 20 U.S.C. 2416.)

§ 105.612 Eligible programs.

Twenty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of conducting training for instructors of bilingual vocational training programs in an amount equal to the total sum expended by the applicant for the purposes set forth in that application. No cost sharing is required. These programs include:

(a) Pre-service training programs designed to prepare persons to participate in bilingual vocational training or bilingual vocational education as: (1) Instructors; (2) Aides; and (3) Ancillary personnel such as guidance personnel and counselors.

(b) In-service and developmental programs designed to enable instructional and ancillary personnel to continue to improve their qualifications while participating in bilingual vocational training programs; fellowships or traineeships for persons engaged in activities described in (a) and (b) are an allowable cost. A fellowship is an award to an individual student made by a granting agency of the Department. A traineeship is an award to an institution for student support (stipends or allowances) and for institutional support (either in a predetermined amount or based on actual costs).

(Sec. 186; Sec. 187; 20 U.S.C. 2416; 20 U.S.C. 2417.)

§ 105.613 Eligible applicants.

The following categories of agencies or institutions are eligible for grants or contracts, except item (c) being eligible only for contracts: (a) State agencies; (b) Public and private nonprofit educational institutions; and (c) Private-for-profit educational institutions.

(Sec. 186; 20 U.S.C. 2416.)

§ 105.614 Applications for grants or contracts.

(a) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(b) An applicant shall set forth in the application a bilingual vocational instructor training program of a type described in § 165.612;

(c) An applicant shall describe in the application the capabilities of the applicant institution in terms of:

(1) A listing of the vocational training or vocational education courses offered by that institution;

(2) Appropriate accreditation by regional or national associations, if any;

(3) Approval by appropriate State agencies of the courses offered; and

(4) Qualifications of the principal staff who will be responsible for the training program.

(d) An application shall describe clearly (and in detail) in the application the trainees in terms of the:

(1) Minimum qualifications of the persons to be enrolled in the training program;

(2) Selection process of the trainees; and

(3) Amounts of fellowships or traineeships, if any, to be granted to the persons enrolled.

(e) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) shall include an evaluation of the previous project and will be reviewed competitively with new applications.

(Sec. 189A; 20 U.S.C. 2420.)

§ 105.615 Review of applications.

(a) The Commissioner may approve an application for assistance under the bilingual vocational instructor training program only if the application:

(1) Meets the requirements set forth in § 105.614;

(2) Is consistent with the criteria set forth in § 105.616;

(3) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the FEDERAL REGISTER.

(4) The applicant institution actually has an ongoing vocational training program in the field in which persons are being trained; and

(5) The applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual vocational training program for which persons are being trained.

(b) Prior to making awards in a State, the Commissioner will, where feasible, consult with the State board to achieve equitable distribution of assistance among populations of persons of limited English-speaking ability with the most acute need for training within the State.

(Secs. 189A, 189B(a)(3); 20 U.S.C. 2420, 2421.)

§ 105.616 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100.26, Review of Applications in the Office of Education, General Provisions for Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criterion is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 30 points to be considered for funding.

(a) *Need.* (Maximum 10 points) The need section clearly: (1) Describes the need for the proposed instructor training; (2) Provides specific evidence of the need; (3) Indicates specifically how the need will be met; and (4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points) The objectives are related to the problem and: (1) Are significant for pre-service or in-service training; (2) Clearly describe the proposed training program; and (3) Are capable of being measured and attained.

(c) *Plan.* (Maximum 15 points) The plan clearly describes the way in which the objectives will be accomplished by the: (1) Overall design for the proposed

project; (2) Specific procedures of each segment of the design in terms of accomplishing the objectives; (3) Normally the plan will include:

(i) Description of the training program, including all program components;

(ii) Description of the minimum qualifications of the persons to be enrolled in the training program;

(iii) Description of the selection process and the amounts of the fellowships or traineeships, if any, to be granted to persons enrolled in the program;

(iv) Evidence that the applicant institution actually has an ongoing vocational training or vocational education program in the field for which persons are to be trained, including a listing of the vocational courses offered by the institutions;

(v) Evidence that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained; and

(vi) Evidence that a need exists for instructors who will receive training in the proposed project.

(d) *Management plan.* (Maximum 8 points) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(e) *Evaluation plan.* (Maximum 12 points) The plan includes rigorous procedures for assessing and documenting the instructor training program including both the vocational component and the language component.

(f) *Applicant's staff competencies and experience.* (Maximum 25 points) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, professional staff, consultants, and advisory groups;

(2) Time commitments planned for the project director, key staff, advisory groups, and any consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential for the proposed project, including proficiency in English and in the language other than English.

(g) *Budget and cost effectiveness.* (Maximum 10 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective.

(h) *Institutional capability and commitment.* (Maximum 10 points.) The application provides adequate evidence of:

(1) Institutional experience and commitment to the proposed work;

(2) Appropriate facilities and equipment necessary for the proposed project;

(3) Appropriate accreditation of the applicant institution by regional or national associations and approval by appropriate State agencies of the courses offered; and

(4) Documented assurance of support from cooperating agencies, institutions, or community groups where applicable for successful implementation of the project.

(Implements Sec. 189A; 20 U.S.C. 2420.)

§ 105.617 Additional application review factors.

In addition to the criteria listed in § 105.616, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications.

(a) Duplication of effort;

(b) Duplication of funding; and

(c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 181; 20 U.S.C. 2411.)

Bilingual Vocational Instructional Materials, Methods, and Techniques Program

§ 105.621 Purpose.

The purpose of the bilingual vocational instructional materials, methods, and techniques program is to develop instructional materials and encourage research programs and demonstration projects to meet the critical shortage of such instructional materials suitable for bilingual vocational training programs. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational instructional materials, methods, and techniques.

(Sec. 188; 20 U.S.C. 2418.)

§ 105.622 Eligible programs.

Ten percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of developing and testing instructional materials, methods, or techniques for bilingual vocational training in an amount equal to the total sum expended by the application for the purposes set forth in that application. No cost sharing is required. These programs include:

(a) Research in bilingual vocational training;

(b) Development of instructional materials;

(c) Training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

(d) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

(e) Other demonstration and dissemination projects in bilingual vocational training.

(Sec. 189; 20 U.S.C. 2419.)

§ 105.623 Eligible applicants.

The following categories of agencies or institutions are eligible for grants or contracts, except items (e) and (f) being eligibile only for contracts: (a) State agencies; (b) Public educational institutions; (c) Private educational institutions; (d) Nonprofit organizations; (e) Private-for-profit organizations; and (f) Individuals.

(Sec. 188; 20 U.S.C. 2418.)

§ 105.624 Applications for grants or contracts.

(a) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the superivision of the applicant.

(b) An applicant shall set forth in the application a bilingual vocational instructional materials, methods, and techniques program of a type described in § 105.622.

(c) An applicant shall set forth in the application the qualifications of the staff who will be responsible for the program for which assistance is sought.

(d) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) will be reviewed competitively with new applications.

(Sec. 189A; 20 U.S.C. 2420.)

§ 105.625 Review of applications.

The Commissioner may approve an application for assitance under the bilingual vocational instructional materials, methods, and techniques program only if the application:

(a) Meets the requirements set forth in § 105.624;

(b) Is consistent with the criteria set forth in 105.626; and

(c) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the Federal Register.

(Sec. 189A; 20 U.S.C. 2420.)

§ 105.626 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100a.26, Review of Applications in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum score of 50 points to be considered for funding.

(a) *Need.* (Maximum 20 points) The need section clearly:

(1) Describes the national significance and the need in bilingual vocational training for the proposed project;

(2) Provides specific evidence of the need;

(3) Indicates specifically who or what will be helped; and

(4) Describes the problem rather than the symptoms of the problem.

(b) *Literature review.* (Maximum 5 points) The literature review is sufficiently comprehensive to:

(1) Establish the basis for the problem;

(2) Describe the problem in contrast to the symptoms of the problem;

(3) Provide a strong conceptual framework for the proposed objectives and proposed plan, including the general design and specific procedures of the proposed plan, along with the management, evaluation, dissemination, and training procedures (when appropriate); and

(4) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.

(c) *Objectives.* (Maximum 10 points) The objectives are related to the problem and: (1) Are significant for bilingual vocational training; (2) Clearly describe proposed project outcomes; (3) Are capable of being attained; and (4) Are measurable.

(d) *Plan.* (Maximum 15 points) The plan clearly describes:

(1) The overall design for the proposed project; and

(2) The specific procedures by which each objective will be accomplished. Normally the plan will include:

(i) Precise definitions of terms; (ii) Description of the characteristics and number of subjects; (iii) Sampling procedures and control groups; (iv) Instrumentation; and (v) Statistical and analytical procedures.

(e) *Management plan.* (Maximum 10 points). The management plan adequately describe the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(f) *Evaluation plan.* (Maximum 10 points.) The plan includes rigorous procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.

(g) *Results, end products, outcomes, and dissementation.* (Maximum 10 points.) The application clearly describe:

(1) What will be delivered to the government;

(2) The format in which the results, products, or outcomes will be delivered to the government;

(3) The way in which results, products, or outcomes will be developed or provided for dissemenation purposes to specified user populations, and

(4) The procedures to be used in disseminating the results, and products, or outcomes at the local, State, and/or national levels.

(h) *Applicant's staff competencies and experience.* (Maximum 10 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and consultants;

(2) Time commitments planned for the project by the project director, key staff, advisory groups, and consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and

(4) The competencies that are required for the proposed project.

(i) *Budget and cost effectiveness.* (Maximum 5 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective with respect to proposed results, products, or outcomes.

(j) *Applicant's capability and commitment.* (Maximum 5 points.) The application provides adequate evidence of:

(1) Institutional or individual's experience and commitment to the proposed work;

(2) Appropriate facilities and equipment; and

(3) Documented assurance of support from cooperating agencies, local educational agencies or postsecondary institutions, business, industry, and labor, where applicable for successful implementation of the project.

(Implements Sec. 189A; 20 U.S.C. 2420.)

§ 105.627 Additional application review factors.

In addition to the criteria listed in § 105.626, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications.

(a) Duplication of effort;

(b) Duplication of funding; and

(c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 181; 20 U.S.C. 2411.)

APPENDIX A

DEFINITIONS

"Act" means the Vocational Education Act of 1963, Pub. L. 88-210, as amended by Title II of the Education Amendments of 1976, Pub. L. 94-482, 90 Stat. 2168, 20 U.S.C. 2301 et seq.

(Secs. 101-195, 20 U.S.C. 2301 et seq.)

"Administration" means activities of a State or an eligible recipient necessary for the proper and efficient performance of its duties under the Act, including supervision, but not including ancillary services.

(Sec. 195(20); 20 U.S.C. 2461.)

"Adult program" means (for reporting purposes) vocational education for persons who have already entered the labor market or who are unemployed or who have completed or left high school and who are not described in the definition of "postsecondary program."

(Sec. 110(c); 20 U.S.C. 2461.)

"Ancillary services" means activities which contribute to the enhancement of quality in vocational education programs, including activities such as teacher training and curriculum development, but excluding administration (except in consumer and homemaking education under Section 150 of the Act).

(Implements Sec. 195(20); 20 U.S.C. 2461.)

"Area vocational education school" means:

(a) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market;

(b) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or

(c) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market; or

(d) The department or division of a junior college or community college or university operating under the policies of the State board which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree, if:

(1) The vocational programs are available to all residents of the State or an area of the State designated and approved by the State board; and

(2) In the case of a school, department, or division described in (c) or (d), it admits as regular students both persons who have completed high school and persons who have left high school.

(Sec. 195(2); 20 U.S.C. 2461.)

"Bilingual vocational training" means training or retraining in which instruction is presented in both the English language and the dominant language of the persons receiving training and which is conducted as part of a program designed to prepare individuals of limited English-speaking ability for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but excluding any program to prepare individuals for employment in occupations which require a baccalaureate or advanced degree; bilingual vocational training includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become, instructors in a bilingual vocational training program; and the acquisition, maintenance, and repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land.

(Implements Sec. 181; 20 U.S.C. 2411)

"CETA" means the Comprehensive Employment and Training Act of 1973, Pub. L. 93-23, 87 Stat. 839, as amended.

"Commissioner" means the U.S. Commissioner of Education or the Commissioner's designee.

(Sec. 195(5); Sec. 421A(a) of GEPA; 20 U.S.C. 2461.)

"Construction" includes:

(a) Construction of new buildings;

(b) Acquisition, expansion, remodeling, and alteration of existing buildings;

(c) Site grading and improvement; and

(d) Architect fees.

(Sec. 195(4); 20 U.S.C. 2461.)

"Cooperative education" means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(Sec. 195(18); 20 U.S.C. 2461.)

"Curriculum materials" means materials:
(a) Covering instruction in a course or series of courses in any occupational field; and
(b) Designed to prepare persons for employment at the entry level; or
(c) Designed to upgrade occupational competencies of those previously or presently employed in any occupational field.

(Sec. 195(19); 20 U.S.C. 2461.)

"Disadvantaged" means:
(a) Persons (other than handicapped persons) who:
(1) Have academic or economic disadvantages; and
(2) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs.

(Sec. 195(16); 20 U.S.C. 2461.)

(b) "Academic disadvantage," for the purposes of this definition of "disadvantaged," means that a person:
(1) Lacks reading and writing skills;
(2) Lacks mathematical skills; or
(3) Performs below grade level.
(c) "Economic disadvantage," for the purposes of this definition of "disadvantaged," means:
(1) Family income is at or below national poverty level;
(2) Participant or parent(s) or guardian of the participant is unemployed;
(3) Participant or parent of participant is recipient of public assistance; or
(4) Participant is institutionalized or under State guardianship.

(Interprets Sec. 195(16); 20 U.S.C. 2461.)

"Eligible recipient" means:
(a) A local educational agency, or
(b) A postsecondary educational institution.

(Sec. 195(13); 20 U.S.C. 2461.)

"Financial ability," as used in section 106(a)(5)(B)(i) of the Act means the property wealth per capita of local school districts and of other public agencies having a tax base or the total tax effort of the area served by these schools and agencies as that effort is a percentage of the income per capita of those within the taxing body.

(Implements Sec. 106(a)(5)(B)(i); 20 U.S.C. 2306; H. Rept. No. 94–1085, p. 34.)

"Handicapped" means:
(a) A person who is:
(1) Mentally retarded;
(2) Hard of hearing;
(3) Deaf;
(4) Speech impaired;
(5) Visually handicapped;
(6) Seriously emotionally disturbed;
(7) Orthopedically impaired; or
(8) Other health impaired person, or persons with specific learning disabilities; and
(b) Who, by reason of the above:
(1) Requires special education and related services, and
(2) Cannot succeed in the regular vocational education program without special educational assistance; or
(3) Requires a modified vocational education program.

(Sec. 195(7); Sec. 602(1) of the Education of Handicapped Act; 20 U.S.C. 2461; 20 U.S.C. 4001.)

"HEW" means the Department of Health, Education, and Welfare.

(42 U.S.C. 3501.)

"High school program" means vocational education for persons in grades 9 through 12.

(Implements Sec. 101; 20 U.S.C. 2461.)

"Industrial arts education programs" means those education programs:
(a) Which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes; and
(b) Which assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(Sec. 195(15); 20 U.S.C. 2461.)

"Institution of higher education" means institution of higher education as defined in section 1201(a) of the Higher Education Act.

(Sec. 1201(a) of the Higher Education Act, 20 U.S.C. 1141(a).)

"Limited English-speaking ability" when used in reference to an individual means:
(a) Individuals who were not born in the United States or whose native tongue is a language other than English, and
(b) Individuals who came from environments where a language other than English is dominant, and by reasons thereof, have difficulties speaking and understanding instruction in the English language.

(20 U.S.C. 880b–1.)

"Local educational agency" means:
(a) A board of education (or other legally constituted local school authority) having administrative control and direction of public elementary or secondary schools in a city county, township, school district, or political subdivision of a State; or
(b) Any other public educational institution or agency having administrative control and direction of a vocational educational program.

(Sec. 195(10); 20 U.S.C. 2461.)

"Low-income family or individual" means families or individuals who are determined to be low-income according to the latest available data from the Department of Commerce.

(Sec. 195(17); 20 U.S.C. 2461.)

"National Advisory Council" (NACVE) means the previously existing National Advisory Council on Vocational Education which is continued by section 162 of the Act.

(Sec. 195(14); 20 U.S.C. 2461.)

"Postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

(Sec. 195(12); 20 U.S.C. 2461.)

"Postsecondary program" means (for reporting purposes) vocational education for persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs.

(Sec. 110(c); 20 U.S.C. 2310.)

"Private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (a) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (b) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (c) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (d) is accredited (1) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, or (2) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, or (3) if the Commissioner determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded." (Pub. L. 95–40; 20 U.S.C. 2461(21).)

"School facilities" means:
(a) Classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed.
(b) "School facilities" does not include any facility intended primarily for events for which admission is to be charged to the general public.

(Sec. 195(3); 20 U.S.C. 2461.)

"Secondary program" means vocational education for persons in secondary grades as defined by State law.

(Implements Sec. 101; 20 U.S.C. 2301.)

"Secretary" means the Secretary of Health, Education, and Welfare.

(Sec. 195(6); 20 U.S.C. 2461.)

"State" includes:
(a) The 50 States;
(b) The District of Columbia;
(c) The Commonwealth of Puerto Rico;
(d) The Virgin Islands;
(e) Guam;
(f) American Samoa; and
(g) The Trust Territory of the Pacific Islands.

(Sec. 195(8); 20 U.S.C. 2461.)

"State board" means the State board designated or created by State law as the sole State agency responsible for:

(a) The administration of vocational education; or

(b) Supervision of the administration of vocational education in the State.

(Sec. 195(9); 20 U.S.C. 2461.)

"State educational agency" (SEA) means:

(a) The State board of education; or

(b) Other agency or office primarily responsible for the State supervision of public elementary and secondary schools; or

(c) If there is no such office or agency, an office or agency designated by the Governor or by State law.

(Sec. 195(11); 20 U.S.C. 2461.)

"Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; for purposes of this paragraph, the term "organized education program" means only:

(a) Instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; and

(b) The acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment.

The term "vocational education" does not mean the construction, acquisition, or initial equipment of buildings, or the acquisition or rental of land.

(Sec. 195(1); 20 U.S.C. 2461.)

"Vocational instruction" means instruction which is designed to prepare individuals upon its completion for employment in a specific occupation or cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or preparing to engage in such occupation or occupations. Such instruction may include:

(a) Classroom instruction;

(b) Classroom related field, shop, and laboratory work;

(c) Programs providing occupational work experiences, including cooperative education and related instructional aspects of apprenticeship programs;

(d) Remedial programs which are designed to enable individuals to profit from instruction related to the occupation or occupations for which they are being trained by correcting what ever educational deficiencies or handicaps prevent them from benefiting from such instruction; and

(e) Activities of vocational student organizations which are an integral part of the vocational instruction, subject to the provisions in § 104.513.

(Implements Sec. 120(b)(1)(A); 195(1); 20 U.S.C. 2330, 2461.)

APPENDIX B

QUESTIONS AND ANSWERS

Many specific questions were raised by interested persons with respect to the implementation of the Act. Some of these issues raise important policy considerations and have legal significance. Recognizing that the goal of a uniform position on these issues can best be achieved through publication in the FEDERAL REGISTER, the Commissioner has decided to issue the following questions and answers as supplementary information to the regulation.

Question No. 1: To what part of the Act does the section 106(a)(5) funding formula apply?

Answer: The section 106(a)(5) funding formula must be applied to all Federal funds distributed under sections 120, 134, 140 and 150. In addition, certain parts of the Act impose other special funding criteria, priorities, and conditions which must be considered. For example, both the work study program (section 121) and cooperative vocational education program (section 122) require that priority in funding be given to areas of high youth dropouts or youth unemployment.

Question No. 2: Is it permissible for the State education agency (SEA) to contract with another agency to fulfill the requirement of full-time personnel being assigned to work to eliminate sex discrimination and sex stereotyping?

Answer: The SEA may contract for personnel to assist the State board in this capacity, but the contract must specify that the personnel will work full-time to eliminate sex discrimination and sex stereotyping from vocational education programs by performing the functions listed in § 104.75. If the personnel are hired under contract, the State agency is as responsible for the performance of the personnel as it would be if the personnel were employed directly by the State board.

Question No. 3: What should the qualifications be of the full-time personnel to eliminate sex bias, sex discrimination, and sex stereotyping?

Answer: Section 104.72(b) requires the State to match the qualifications of the applicants with the responsibilities of the job. The responsibilities are set forth in § 104.75. In addition, the person selected should have a demonstrated commitment to the elimination of sex bias, sex discrimination, and sex stereotyping.

Question No. 4: How can a State department of education legally monitor the personnel practices of local educational agencies who are, for all practical purposes, autonomous?

Answer: Section 104(b)(1) of the Act requires that the full-time personnel to eliminate sex bias monitor the implementation of laws prohibiting sex discrimination. In a State where the local educational agencies have a great deal of autonomy and the State personnel have no authority to enforce changes, the LEA should have no objection to the full-time personnel visiting to observe their personnel practices, make suggestions, and report violations of Titles VI and IX.

Question No. 5: Does the certification contained in § 104.171(g) detract from the requirements in § 104.75(j) which require the full-time personnel to review and submit recommendations on the State plan?

Answer: No. The certification in § 104.171 (g) does not preclude inclusion of any comments the full-time personnel wish to make. Under § 104.75 (h) and (j), the full-time personnel must make information readily available to the State board and the Commissioner and must review the State plan and submit recommendations on it. Comments on the State plan may be submitted with the certification or at any other convenient time.

Question No. 6: May a vocational education student be appointed to the State advisory council pursuant to section 105(a)(20) of the Act even though the individual will no longer be a student after two years?

Answer: Yes. Since members of the advisory council must be appointed for terms of three years, an appointment held by a student who is involved in vocational education for a maximum of two years would become vacant after the individual's status as a student expired. The appointing body, therefore, would be required to fill the vacancy for the unexpired term (§ 104.92(c)(2)).

Question No. 7: Must the annual program plan provide information on the allocation of Federal funds to each eligible recipient?

Answer: Yes. Section 108(b)(1)(B)(ii) of the Act provides that the annual program plan must "set out explicitly the proposed distribution of such funds among eligible recipients."

Question No. 8: Are there any complaint procedures available to parents, students, and other individuals to the State education agency?

Answer: Although the Act does not require the State to adopt a formal grievance procedure for parents, students, and other individuals, the State may wish to develop procedures for resolving these complaints. These procedures might include specific time limits for investigation and resolution of complaints, an opportunity for the complainant to present evidence to the State educational agency, and the dissemination of information concerning these procedures. In addition, the complaint procedure for violations of Title IX are contained in 45 CFR 86.8(b).

Question No. 9: How must the State make the five-year plan and annual program plan reasonably available to the public in accordance with section 106(a)(9)?

Answer: The State should make the plans readily available in places such as libraries, community colleges, and local school districts. With regard to members of the general public requesting copies of the plans, the State may wish to follow the standards and fee schedule of the Department's regulations under the Federal Freedom of Information Act (Pub. L. 90-23, 45 CFR Part 5).

Question No. 10: At what stage must the State make the plans available to the public?

Answer: Since the public must have some familiarity with the content of the planning documents prior to the public hearing the State should make drafts of the plans available prior to the public hearings.

Question No. 11: When will the Commissioner make the State plans available to the public?

Answer: Under the Department's Freedom of Information Regulations (45 CFR Part 5), "State plan material" is specifically listed in the Appendix as "Generally Available." This means that State plans sent or delivered to the Office of Education, or letters relating thereto, will be available. Therefore, both the five-year State plan and annual program plan will be available to members of the public, on request for the document, as soon as the document is received by the Office of Education in a regional office or the central office. The document will be available on receipt, before the Commissioner's review or approval.

Question No. 12: If the State legislature supports the entire cost (other than tuition payments) of operation of postsecondary area vocational schools, how would the relative financial ability of the institution be established pursuant to section 106(a)(5)(B)(i) of the Act?

Answer: An institution with no local tax base for support would have to calculate its relative financial ability on the amount of funds the State legislature makes available to it.

Question No. 13: Two commenters questioned the appropriateness of participants (other than those representatives specified in section 107(a)(1)) being involved in the development of the peon.

Answer: While a State may involve other participants, only one member of each of the designated agencies, councils, and individuals specified in section 107(a)(1) of the Act may be involved in the development of the peon.

Question No. 14: May the State board design the membership of the section 107 planning group in such a way that the State educational agency's personnel constitute a majority of the voting membership?

Answer: Membership on the planning group is limited to one official representative for each of the agencies, councils, and individual categories specified in section 107(a)(1) of the Act. One person may be the State agency's representative for more than one of the ten categories if that State agency has multi-responsibility. There is, however, no requirement for a vote by each representative.

Question No. 15: Should CETA be included "among the various institutions of the State" under section 107(b)(2)(A)?

Answer: No. CETA is not an institution for purposes of § 107(b)(2)(A). Through the coordination efforts in § 104.188 the State board will have data on programs conducted under CETA and will consider these data in its planning.

Question No. 16: What basis should the State use to determine if a shift in funding for programs in secondary schools has occurred in accordance with § 104.315?

Answer: The State should rely on the 601T forms submitted to the Office of Education for fiscal years 1975 and 1976. These reports should specify the amounts spent at the secondary level. If projected Federal expenditures for programs in secondary schools in either fiscal year 1978 or 1979 are not within 95 percent of the figures reported for fiscal years 1975 or 1976, then a justification must be set forth in the five-year State plan.

Question No. 17: How may a State comply with the section 107(a)(2) and section 108(a)(2) requirement to provide sufficient public notice for public hearings on the five-year plan and annual program plans?

Answer: The State should mail invitations to organizations and individuals in the State having an interest in vocational education and civil rights, publish notices of the hearings in major newspapers, and place announcements on television and radio as appropriate throughout the State, beginning 30 days prior to the hearings.

Question No. 18: Must the section 110 minimum percentages for the national priority programs (handicapped, disadvantaged, postsecondary) be computed against the allotment under section 102(a) prior to the 80/20 split for subparts 2 and 3?

Answer: No. Regardless of whether the computation is made prior to or after the 80/20 division, the minimum percentages must be based on the total allocation, not just the 80 percent for subpart 2 or the 20 percent for subpart 3.

Question No. 19: Must the State pay exactly 50 percent, at least 50 percent, or up to 50 percent for the three national priority programs in section 110 of the Act?

Answer: The State must pay at least 50 percent of the cost of vocational education programs for the national priority programs in section 110 of the Act (§ 104.303).

Question No. 20: May a State use local funds earmarked for local administration as part of the State's matching share for State administration under section 111(a)(2)?

Answer: No. The State matching share must be earmarked for State administration, not local administration. The non-Federal source of funding for State administration, however, may be generated at either the State or local level.

Question No. 21: May a State use tuition fees to meet the statutory matching requirements?

Answer: No. In accordance with § 100b.58 of the General Education Provisions Regulations, tuition and fees collected may not be included as part of the Federal or non-Federal share of expenditures under any Federal program.

Question No. 22: Does the § 104.321 provision of maintenance of fiscal effort allow the State to use a per student basis one year and then change and use aggregated cost the next year?

Answer: Yes. The State may annually select either of the two bases. Local educational agencies and postsecondary institutions may also select either of the two bases.

Question No. 23: To determine maintenance of fiscal effort, will the Commissioner compare the amount between the present and previous year or between the preceding and second preceding year?

Answer: In accordance with § 104.322, the Commissioner will determine maintenance of effort by comparing the preceding year to the second preceding year.

Question No. 24: Are the evaluations of programs conducted by the State board available to the general public?

Answer: Yes. The annual accountability report, which is available to the public, must contain a summary of the evaluations of programs conducted by the State.

Question No. 25: What does the requirement in section 120(b)(2) of the Act that the State board make a specific finding in each instance of funding for stipends in section 120(b)(1)(G) of the Act pertain to?

Answer: Each eligible recipient in the State desiring to provide stipends to students shall include an assurance in its local application to the State board that students to receive stipends have acute economic needs which cannot be met due to inadequate funding in other programs (§ 104.573).

Question No. 26: Section 104.402 of the regulation gives the State board wide latitude and discretion in regard to the collection and reporting of data to evaluate the effectiveness of its programs. Will it be possible to aggregate across all States the data thus collected and meet the reporting requirements of section 112(b) of the Act?

Answer: Aggregation of the data on program completers and leavers required by section 112(b)(1)(B) of the Act will be assured by use of the uniform definitions and information elements and the instructions and standards required by §§ 104.404(d) and 104.405 of the regulation. As for the evaluation required by section 112(b)(1)(A) of the Act, it is the Commissioner's preference that, in view of the increased burden of evaluation under the new Act and the as yet undetermined nature of the new national reporting and accounting system mandated by section 161 of the Act, the State board should be given considerable latitude. After a year of experience with the new Act, it may be found desirable to reconsider the reporting requirements.

Question No. 27: What programs are eligible for funding under the assurance which specifies "of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation"? At what grade level may these programs be offered?

Answer: Prevocational or exploratory programs which are designed to be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice may be funded under the Act. Specifically, programs in industrial arts may be supported with funds under section 120 of the Act beginning at the secondary level (as defined by the State). Exemplary and innovative programs under section 132, consumer and homemaking programs under section 150, and vocational guidance under section 134 may be provided at all levels.

Question No. 28: May subpart 3 funds for program improvement and support services be used for the programs for the special populations described in section 120(b)(1)(L)?

Answer: No. The program outlined in section 120(b)(1)(L) is included among the purposes of the subpart 2 basic grant and, therefore, must be funded under subpart 2.

Question No. 29: May a State satisfy the requirement in § 104.502(b) by providing regular vocational education programs without special courses or instruction in how to seek employment for the special populations listed in § 104.621?

Answer: No. The State must provide these special populations with vocational education programs which offer special instruction in how to seek employment and placement services for graduates.

Question No. 30: Is a correctional institution of the State eligible to receive funds?

Answer: Yes. Under section 195(13) only LEA's or post-secondary institutions are "eligible decipients." The State or eligible recipient may, however, enter into an arrangement with the agency administering correctional institutions for the provision of vocational training.

Question No. 31: May funds available for establishing day care centers be used for the establishment of centers in schools? May these centers also be used as a laboratory for training students for employment in child care occupations?

Answer: Yes. The day care centers may be established in the schools and may serve as a learning laboratory for training students for employment in child care occupations.

Question No. 32: May a State use section 130 funds to support research activities in LEA's?

Answer: Yes. Section 130 authorizes the Commissioner to allocate funds to the States for, among others, the purposes of section 131. Section 131(a) authorizes the State to support a research coordinating unit (RCU) for research by the RCU itself or for *contracts* by the RCU for research. Thus, the RCU may enter into a contract with the LEA for research.

Question No. 33: Does the Act require the State to match funds for research, or for exemplary projects, or curriculum development projects, on a program-by-program basis?

Answer: No. Section 111 of the Act does not require a program-by-program matching by the State in programs under sections 130, 131, 132, or 133. See § 104.302 of the regulation as to matching on a State-wide basis and the exceptions.

Question No. 34: May States use funds under § 104.772 to train and upgrade high school counselors to enable them to serve vocational education students better?

Answer: Yes. If the State chooses to use its funds for this purpose, it must incorporate this type of training in its approved five-year State plan and annual program plan for vocational eduaction. Sections 104.772 and 104.773 of the regulations address this point.

Question No. 35: May a State use its vocational education personnel training funds to train interpreter-tutors to work with deaf students of vocational education?

Answer: This use of the funds would be allowable if it is set forth in the approved five-year State plan and annual program plan for vocational education.

Question No. 36: May an LEA use funds under subpart 4, Part B of the Act, "Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities" for new construction?

Answer: No. Section 191 of the Act is clear that this new program is for "modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give rea-

sonable promise of employment." The same section refers to "remodeling and renovation" of facilities. There is no authorization in subpart 4 for construction of new facilities. Use of funds for "construction of area vocational education facilities" is authorized in section 120(b)(1)(E).

Question No. 37: Are private, non-profit rehabilitation centers and workshops eligible for emergency remodeling funds under subpart 4?

Answer: No. Section 191 of the Act states, as eligible, only "local educational agencies in urban and rural areas."

Question No. 38: Are leased premises eligible for emergency assistance for remodeling under subpart 4?

Answer: Yes. The Act does not state whether leased premises are eligible for emergency remodeling assistance. Determinations will have to be made on a case-by-case basis. Facilities leased by an LEA under a 99-year lease should be treated as facilities owned by an LEA. Where facilities are leased on a short-term lease, the LEA might not score points under criterion 9 (§ 105.504(b)(9)), as use of funds to renovate premises on a short-term lease might not be economical.

COMMENTS AND RESPONSES

The following comments, suggestions, and criticisms were submitted in writing in response to the proposed rules. After the summary of each comment, a response is set forth stating the changes which have been made in the regulations or the reasons why no change is deemed necessary or appropriate. The comments are grouped based on the sections affected, arranged in sequence.

PART 104—STATE VOCATIONAL EDUCATION PROGRAMS

SUBPART 1—STATE ADMINISTRATION

§ 104.2 *Purpose:* Meaning of "where necessary maintain."

Comment. A commenter pointed out that one of the purposes of the new Act is to assist the States "in extending, improving, and, where necessary, maintaining existing programs of vocational education"; that the new Act specifically inserted "where necessary" in order to give the maintenance of existing programs a lesser priority than that given to expanding and improving programs; and that the proposed regulation fails to carry out that intention. Another commenter asked for a definition of "where necessary."

Response. In section 101 of the Act, Congress set forth the purposes of the new Vocational Education Act. The regulation, in § 104.2, repeats the language of section 101 exactly, leaving "extending" and "improving" programs of vocational education ahead of "maintaining" existing programs, and leaving in the phrase "where necessary" as modifying "maintaining existing programs." The Conference Report (Report No. 94-1701, p. 214) states: "The determination of necessity is to be made by appropriate State and local officials. The phrase is not intended to authorize the Commissioner of Education to apply a strict litmus test of absolute necessity before an on-going program can be funded. However, it is intended to encourage States to use their limited amount of Federal funds to invest in the often-expensive start-up costs of new programs." The maintaining of existing programs should be the subject of study in the preparation of the five-year State plan and the annual program plan and accountability report. Since the maintaining of existing programs is such a broad subject, no definition of "where necessary" has been attempted. No change is made in the regulation.

§ 104.2 *Purpose: "Youth with specific learning disabilities."*

Comment. A commenter recommended that § 104.2(a)(4) of the statement of "purpose" be amended to change the phrase "those with special educational handicaps" to "youth with specific learning disabilities."

Response. The "purpose" as set forth in § 104.2 is taken verbatim from section 101 of the Act. This statement of purpose was not changed by the Technical Amendments, Pub. L. 95-40. The Technical Amendments, however, include in the definition of handicapped, "persons with specific learning disabilities." A corresponding change is made in the definition of "handicapped" in the Appendix to Part 104 of the regulations.

STATE BOARD

§§ 104.31-104.33 *State board staff.*

Comment. A commenter recommended that the regulation include requirements for an adequate State board to carry out its responsibilities and functions, including a full-time director.

Response. The recommendation is accepted. A section (§ 104.34) is added to require the State board to provide for a State staff sufficiently qualified and in sufficient number to administer properly the State's program of vocational education. Through oversight this provision was omitted from the NPRM. Section 104(a) of the Act places great responsibility on the State Board for administration and leadership. The requirement for adequate staffing by the State board is entirely appropriate.

§ 104.32 *State board: Definition of the term "coordination."*

Comment. Several commenters suggested that the regulation be amended to define the term "cordination." These comments also inquired: (1) If the responsibilities of the State board for coordination of the development of policy and the development of the State plans were intended to limit the authority of the State board, and (2) if the State board is to limit its coordination activities to the groups identified in clauses (A) through (J) of section 107(a) of the Act.

Response. In requiring the State board to coordinate the development of policy and the development of the State plans with the agencies, councils, and individuals identified in section 107(a) of the Act, it was the intent of Congress to establish a mechanism to strengthen the planning function of the State board, rather than limit its authority. To carry out the mandate of section 104(a) of the Act, the State board convenes the planning group, established by section 107(a) of the Act, for at least three meetings during each fiscal year concerning the development of the annual program plan and accountability report and for at least four meetings concerning the development of the five-year State plan.

Although only representatives of the agencies, councils, and individuals identified in section 107(a) of the Act must participate in the decision-making activities of the planning group, the State board is responsible for coordinating the State plan with any group or individual having an interest in vocational education. Section 107 of the Act requires that the State board hold public hearings to provide every interested person or group the opportunity to participate in the development of the State plan. No change is made in the regulation.

§ 104.32 *Responsibilities of the State board.*

Comment. A commenter suggested that it may be misleading to list only the coordinative responsibilities of the State board in § 104.32 of the regulation. To correct this situation, it was suggested that the regulation be changed to read, "The State board's responsibilities shall include but not be limited to * * *."

Response. This recommendation is accepted. Section 104.32 of the regulation follows very closely the language of section 104(a) of the Act which sets forth the (non-delegable) responsibilities of the State board. In order to assure that the regulation provides a clear interpretation of the intent of the Act, the first sentence of § 104.32 of the regulation is amended to read, "The responsibilities of the State board include (but are not limited to):"

Comment. A commenter expressed the view that it was the intent of Congress to have the inspiration for the planning of the vocational education programs arise from the local educational level where the needs of the student are "best seen and cared for."

Response. Each local educational agency and postsecondary educational institution that participates in the vocational education program submits an application to the State board. The State plan is formed, in part, from the vocational education programs that are identified in the applications from local educational agencies and postsecondary institutions. Since the planning group is responsible for assuring that the State plan provides a comprehensive and coordinated vocational education program that is responsive to the total vocational education program needs of the State, no change is made in the regulation.

§ 104.32(d) *State board consultation with the State advisory council.*

Comment. In noting that the regulation specifies that members of the State board are responsible for consulting with the State advisory council, a commenter suggested that it is also appropriate for the staff of the State board and the staff of the council to consult frequently on matters of mutual concern.

Response. Section 104.32(d) of the regulation is consistent with section 104(a)(1) of the Act which requires that the State board consult with the State advisory council regarding the planning and reporting of the State's vocational education programs. The regulation reflects the intent of Congress, which was to establish a procedure to ensure the participation of the State advisory council in the development of the State plans and accountability reports. It is not the intent of the Act nor the regulation to preclude, discourage, or hamper in any way the exchange of formal or informal communications between the State board and the State advisory council, or between the staffs of the board and the council. Consultation between the two staffs need not be required in the regulations. No change is made in the regulation.

FULL-TIME PERSONNEL AND FUNCTIONS TO ELIMINATE SEX DISCRIMINATION AND SEX STEREOTYPING

§§ 104.71-76 *More specific guidance on full-time personnel.*

Comment. Many commenters requested more specific language in the regulations on the designation, support, and functions of the full-time personnel to eliminate sex bias. All felt that too many decisions were left up to the individual States and that the States need more guidance, particularly in this area.

Response. Although many decisions (such as placement of the personnel within the

State structure, the number of personnel necessary) will be left to the States to make, changes have been made in §§ 104.71–76 of the regulation in an attempt to strengthen and clarify the activities under these sections. These changes are spelled out in more detail in the following comments and responses.

§ 104.72 *"Employment/designation" of full-time personnel.*

Comment. A commenter felt that the words "designation" and "assign" in this section convey the impression that the State education agency must utilize personnel already employed by the agency to fill the positions under this section. Suggested instead was the use of the terms "employment/designation" and "employ/assign."

Response. The use of the terms "designation" and "assign" in § 104.72 is not intended to indicate that current State agency personnel must be used to fill the positions under this section. There is no indication in either the Act or legislative history that such an interpretation is valid. In addition, the joint terms suggested by the commenter ("employment/designation" and "employ/assign") are not seen as clarifying the meaning. However, in light of other comments received, further clarification appears necessary; therefore, the terms "designation" and "assign" have been changed to "selection" and "select."

§ 104.72 *Full-time personnel/personnel working full time.*

Comment. A number of commenters noted the difference between the language of the Act requiring "full-time personnel" and the language of the regulation requiring "personnel to work full time" on sex bias issues. Several of these commenters have requested that the language of the regulation be changed. Others, however, have opposed such a change on grounds that it might lead to hiring personnel to perform these functions on a less than full-time basis.

Response. The change of language in the regulation to "personnel to work full time" is intended to clarify the Act. It is apparent from the legislative history that Congress intended that the State have at least one professional working full time on the elimination of sex bias and sex stereotyping in vocational education rather than a person employed full time but working less than full time on the elimination of sex bias. Although personnel may be placed in any unit the State chooses, the professional personnel must work full time on elimination of sex bias and sex stereotyping in vocational education. Thus no change is made in the regulation.

§ 104.72 *Placement of full-time personnel.*

Comment. One commenter noted that neither the Act nor the regulation mandates the full-time personnel hired under this section to be employed by the State department of education, vocational education division. Therefore, this commenter interpreted this to mean that it is not necessary for personnel filling these positions to be employees of the State vocational division.

Response. The commenter is correct in this interpretation. It appears from the legislative history that Congressional intent was not to limit the State in placing this personnel within the State structure. Page 215 of the Conference Report (No. 94–1701) states that there is no intention "that the State must assign such personnel to the State board." Each State may decide where the personnel will function best. The personnel may operate within the vocational division or may work from another area. However, the personnel must work full time on elimination of sex bias and sex stereotyping in vocational education. No change is made in the regulation.

§ 104.72 *Criteria for selection of full-time personnel.*

Comment. Many commenters expressed the concern that, unless criteria for the selection of the full-time personnel were set forth by the regulation, the positions might be filled with persons who are not qualified or who might compound the bias problems. The criterion most often suggested was that the persons chosen for these positions have demonstrated a commitment to the elimination of sex bias in educational programs. Other qualifications suggested include knowledge of sex bias problems and issues, leadership capability, vocational education background, creativity, patience, and determination. Several commenters felt that the States should be required to advertise the position widely and to assure that it be open to all applicants. One commenter proposed that there be a selection committee to be made up of individuals with knowledge of sex bias issues.

Response. The recommendation is accepted in part. The regulation will not prescribe specific criteria for the States to use in selecting the full-time personnel. As in selection of other State personnel, the criteria will vary from State to State; however, a paragraph has been added requiring that the States match the qualifications of the applicants with the responsibilities of the job.

§ 104.73(a) *Definition of sex bias.*

Comment. Several commenters expressed concern over the proposed definition of "sex bias." The difficulty stems from the statement that "as used in the Act and the regulations, sex bias * * * includes sex discrimination." One commenter remarked that bias and discrimination are not the same. Others were concerned that "sex stereotyping" had been left out. These commenters suggested that "sex stereotyping" be added wherever "sex bias" is used in the regulations or that "sex stereotyping" be added to the final sentence in the definition on the use of "sex bias" in the Act and regulations. Still others favored discarding the proposed definition for a new one.

Response. The recommendation that the definition of sex bias be modified is accepted. The final sentence of § 104.73(a) is deleted since it is confusing rather than clarifying. In addition, the use of the terms "sex bias," "sex discrimination," and "sex stereotyping" are clarified throughout the regulations.

§ 104.74 *$50,000 Minimum.*

Comment. Several persons commented on the $50,000 set by the regulation as a minimum for support of the full-time personnel. The comments were evenly divided regarding the words "at least $50,000." Some commenters felt it important to stress that this is a minimum, while others felt that the $50,000 is a specific amount set by the law to be no more and no less.

Response. There is nothing in the Act to prevent a State from spending more than $50,000 to support the full-time personnel, but a State may not spend less than that amount. To emphasize this point, the language of the regulation has been amended to read "not less than" $50,000.

Comment. A few commenters felt that the salary items (§ 104.74(b)(1) and (2) should be combined to read "salaries for full-time staff," without making a distinction between professional and support staff.

Response. Section 104(b)(1) of the Act is interpreted to mean that the professional staff, but not necessarily the support staff, must work full time on the functions set forth in § 104.75. The regulation does not mandate that clerical and other support staff work full time in this area. Thus, the question whether support staff must work full time is left to the discretion of the State. No change is made in the regulation.

§ 104.74(b) *Allowable activities.*

Comment. Many commenters were concerned that § 104.74(b) was too restrictive regarding use of the $50,000. These commenters requested that items be added to the list of allowable expenditures, such as publications, workshops, and dissemination of information.

Response. The proposed language in § 104.74(b) is reasonable in that it provides sufficient guidance to the States on the use of funds while being broad enough to include the additional list of activities suggested. The measure of a legitimate expense under this section is the degree to which it relates to the support of the personnel in carrying out the functions set forth in § 104.75. No change is made in the regulation.

§ 104.75 *Minimum requirements for accomplishing "sex bias" functions.*

Comment. A number of commenters felt that the regulation should spell out the minimum requirements to accomplish the functions listed in § 104.75. They felt that the full-time personnel needed specific guidance in fulfilling their responsibilities. Specific suggestions include development of a complaint process, a strengthened public information component, an annual report on the status of women in vocational education programs, and the use of the Title IX self-evaluation.

Response. Although the functions listed in § 104.75 provide a framework within which the full-time personnel will work, some of the above suggestions offer more guidance and have been included. Requirements have been added to emphasize the public information function of the personnel, especially in assisting the State board in publicizing the State plan hearings. Also included are references to the Title IX complaint process and self-evaluation. Other more specific suggestions were not included, since the full-time personnel will develop a plan to implement the functions which will address the needs of the particular State, and further guidance was felt unnecessary.

§ 104.75(a) *Reduce sex bias and sex stereotyping.*

Comment. One commenter suggested that "sex bias" be added to the language in subsection (a) of § 104.75 in addition to sex stereotyping.

Response. The recommendation is accepted. To clarify the regulation, "sex bias" has been added.

§ 104.75(d) *Review of distribution of grants and contracts.*

Comment. A number of commenters felt that review of the distribution of contracts as well as grants should be included in this function.

Response. The recommendation is accepted. Since the State's research, exemplary, and curriculum development programs will be conducted through contracts and since these areas also emphasize elimination of sex bias and sex stereotyping, it appears that review of contracts as well as grants would comply with Congressional intent.

§ 104.75(h) *Availability of information.*

Comment. Several commenters recommended that the language of this subsection be changed to require the full-time personnel to make information developed pursuant to the statutory functions available to the groups listed in § 104.75(h) through the State board rather than supplying the information to the board as well as to the other groups.

Response. The regulation is consistent with the Act which states that the information will be made available to the State board, the National and State Advisory Councils on Vocational Education, the State Commission on the Status of Women, the Commissioner, and the general public. In addition, making information available to the general public through the State board would be difficult. Therefore, no change is made in the regulation.

STATE ADVISORY COUNCIL

§ 104.91 *State advisory council establishment.*

Comment. Commenters pointed out that the regulation does not conform to the Act regarding the appointment of the State advisory council in the case of States in which the members of the State board are elected. The regulation refers only to the "State board" while section 105(a) of the Act uses the term "State board of education."

Response. While this appears to be an inconsistency, the legislative history supports the reference to the State board designated or created by State law as the sole State agency responsible for the administration of vocational education or for supervision of the administration of vocational education in the State. In a great majority of the States, the State board of education serves also as the State board for vocational education. There appears to be no reason for denying to an elected State board for vocational education the authority to make the appointments to the State advisory council. Therefore, the broader term "State board" is not changed in the regulation.

§ 104.92(a) *State advisory council membership.*

Comment. Several commenters suggested that additional groups should be represented on the State advisory council. The additional group representatives suggested were: State planning agencies, adult education, homemaking, college career planning and placement services, State's agency on aging, and the planning and coordinating agency for postsecondary education.

Response. Since categories mandated by section 105 of the Act number twenty, many of which imply multiple representation, it appears unwise to require additional appointments, thereby making the councils too large, unwieldy, and costly to operate under existing budget limitations. Councils are urged to obtain input from interested groups, not directly represented by membership, through their evaluation and public hearing process. No change is made in the regulation.

§ 104.92(a) *Women on State advisory councils.*

Comment. Many commenters suggested that § 104.92(a) (17) include language to the effect that at least two women be required to fulfill the requirement. While the wording of the regulation is taken directly from the Act, it was clear that the Congress intended more than one woman to fill this category. Unless the regulation is so stated, there is danger of misinterpretation at the State level.

A commenter also recommended that the phrase "one or more persons" used in the sentence having reference to minority groups be changed to "women," which is the statutory language.

Response. The recommendation relating to the change in wording of § 104.92(a) (17) from "one or more persons" is accepted.

Although a number of categories listed in this regulation use plural words, the determination of the actual number necessary for each category should be left to the appointing authority rather than have the regulations specify an exact number. Specifically, in the case of category (17), whether one or two women are appointed may depend on the number of women already appointed to other categories. The Commissioner, however, encourages the States to appoint at least two women to fulfill the requirement in category (17). No further change is made in the regulation.

§ 104.92(b) (3) *Appropriate representation.*

Comment. A great many commenters pointed out the need to define "appropriate representation," especially as it relates to the representation of women on the council. It was recommended that "appropriateness" be based on such criteria as the proportion of women and minorities in the State's general population, the State's work force, their representation in vocational education programs, or a combination of such factors. Further, it was suggested that the membership must include persons with an understanding about and commitment to remedy the consequences of sex and minority discrimination.

Response. The recommendation is accepted. While specific quotas are not prescribed, the final regulation includes a statement intended to implement § 104.92(b) (3). In order to reflect effectively the diverse interests and needs of the general public served by the Act, the statement makes clear that the appointing authority shall appoint to the council a significant proportion of women, racial and ethnic minorities, and representatives of geographic regions in the State. The Commissioner considers the term "appropriate representation" to be representation which generally reflects the percentage of women or minorities in the population of the State or the percentage of women or minorities in the work force of the State.

§ 104.93 *Liaison with State Advisory Panel for Handicapped.*

Comment. Two commenters suggested a function of the State advisory council on vocational education be added requiring "appropriate liaison and coordination activities with the State Advisory Panel for the Handicapped."

Response. It is agreed that to insure consistency in planning and program implementation, liaison and coordination between the two agencies are essential. However, as a result of the Technical Amendments, § 104.93 (f) has been amended to include "special education" as one of the programs to be assessed for its part in the consistent, integrated, and coordinated approach to meeting the employment and training needs of the State. This provision, along with the required representative of the handicapped on the State advisory council, is intended to assure the necessary coordination. No change is made in the regulation.

§ 104.93(a) *Council certification.*

Comment. A commenter requested the deletion of the last sentence of § 104.93(a) since this appeared to be a duplication of the certification required by the council representative in § 104.171(b) (3).

Response. In addition to the certification by the council representative relating to the opportunity to participate in the planning process, the council itself must be consulted in the plan development process. Thus, the council has two avenues for involvement in the planning; with the latter being a greater commitment than that afforded other agencies. Since this procedure is statutorily mandated, no change is made in the regulation.

§ 104.93(d) *State board evaluation.*

Comment. A commenter objected to the word "assist" and stated that the law used the word "consult."

Response. Section 112(b) of the Act says that the State shall "consult" with the council and that the council shall "assist" the State in developing the plans. Since the regulation (§ 104.93(d)) uses the word "assist" in relation to assisting the State board, no change is made in the regulation.

§ 104.93 *SACVE function—Evaluation.*

Comment. Commenters suggested that the regulation provide additional direction with regard to certain of the council functions including the following: freedom to conduct whatever independent evaluation it chooses, requirement that data requested from the State board not be denied, evaluation by the council be of State board programs and not LEA programs, the time, frequency and use to be made of the "employment needs" assessment, compatibility of council findings with State-wide goals of State board, relationship of councils to State Occupational Information Coordinating Committee and the State Manpower Services Council, kinds of technical assistance to be given local advisory councils and input into the evaluation process by the local councils.

Response. While the comments have merit, the regulation intentionally provides considerable flexibility to councils in dealing with the newly assigned functions and responsibilities. If problems persist, additional technical assistance may be provided by the staff of the National Advisory Council on Vocational Education or the Office of Education. No change is made in the regulation.

§ 104.94 *Public meetings.*

Comment. A commenter suggested that guidelines be provided for public meetings and that these meetings be held separately from hearings on State plans.

Response. The requirement for public meetings is well established since this procedure was initiated through the Vocational Education Amendments of 1968. Since the council's public meeting is for a different purpose than the public hearings on the State plans, there is no justification for combining meetings. No change is made in the regulation.

§ 104.95(a) *Staff.*

Comment. A commenter suggested that professional and technical personnel be required to demonstrate a commitment to equal rights and sensitivity to the needs of populations being served. Another commenter requested deletion of the provision that the personnel not include members of the State board staff.

Response. Even though the qualifications for personnel suggested are desirable, the matter of personnel selection and the qualifications desired is a responsibility of the council. The exclusion of State board staff from serving as council staff is consistent with the Congressional intent of maintaining council independence from the administering agency. No change is made in the regulation.

§ 104.95(b) *Compatibility with State policies.*

Comment. Two commenters suggested that paragraph 104.95(b) be deleted since it is an infringement on the fiscal independence of the council.

Response. While it is agreed that the council should have independence from the program administrative agency, it was not intended that councils act outside the existing framework of State law and regulations on fiscal matters. Accordingly, the regulation is necessary to establish a degree of responsibility in fiscal matters and compatibility with other State agencies. This is intended to fore-

stall excesses which could bring criticism of the council. No change is made in the regulation.

§ 104.96 *Fiscal independence.*

Comment. Commenters suggested that the regulation make clear that councils are to be solely responsible for the expenditure and use of their funds. Regulations should provide that if the State board is the fiscal agent, the council must certify that its selection was of its own initiative and not subject to influence by the State board. It was also suggested that the phrase "except as provided in § 104.95(b)" be deleted.

Response. Section 105(f)(2) of the Act provides that the expenditure of council funds is to be determined soley by the council for carrying out its functions. However, as noted in the response under § 104.95(b) above, the councils cannot act outside the existing framework of State law and regulations on fiscal matters. The regulation makes it clear though that the responsibility for designating a fiscal agent is assigned directly to the council. No change is made in the regulation.

§ 104.97 *Evaluation report.*

Comment. Commenters suggested that the regulation require additional procedures related to the council evaluations, including public comment on the council's evaluation report, review of the content, techniques, and validity of the vocational education data system and assessment of the impact of vocational education programs on women and minorities.

Response. While all the suggestions are worthy of consideration by councils in performing their functions, the Congressional intent, as evidence by the Act and legislative history, was to allow flexibility in the procedures used by councils. Since the Act requires at least one public meeting, a vocational education data system, and no discrimination on the basis of sex or minority groups, it is reasonable to expect that the council's evaluation will give consideration to these items. No change is made in the regulation.

§ 104.97 *Evaluation by State advisory council.*

Comment. A commenter recommended that the regulation require a written agreement between the State board and the State advisory council as to the role of each in evaluating programs.

Response. The State board and the State advisory council may wish to reduce their working agreement to writing. However, in the interest of keeping regulatory requirements to the minimum, the Commissioner has decided not to require a written agreement between the State board and the State advisory council. No change is made in the regulation.

§ 104.97 *State board comment.*

Comment. A commenter suggested that the council's evaluation report be accompanied by comments of the State board and that the response in writing to each recommendation accompany the State plan.

Response. The annual evaluation report is required to be submitted through the State board, at which time the board may attach comments if it desires. However, § 104.241 (b)(2) requires that the accountability report, which must be submitted by the State board, include the board's consideration of each recommendation in the council evaluation report. Therefore, no change is made in the regulation.

LOCAL ADVISORY COUNCILS

§ 104.111 *Local advisory councils—representatives of additional groups.*

Comment. Many commenters suggested broadening the categories of membership required on the local advisory council so that the categories would be similar to the categories required of membership on the State advisory councils. Others recommended the addition of representatives of specific categories. Specific categories mentioned were: categories (17), (18), (19), and (20) described in §104.92(a) in relation to the State advisory council; women; racial, ethnic, or major language minorities; private schools; persons knowledgeable in vocational education (but not administration); manpower services; local prime sponsor councils under the authority of CETA; the State agency responsible for data collection; and community based organization. Commenters particularly recommended that the phrase "shall be composed of members of the general public" be interpreted to include appropriate representation of women and minorities.

Response. The recommendations have been accepted in part. Since one of the main purposes of the Act is "to overcome sex discrimination and sex stereotyping in vocational education" and to "furnish equal educational opportunity" (sec. 101(3)) the Commissioner will require that an appropriate representation of women and minorities be represented on the local advisory council. Therefore, a new paragraph has been added to § 104.111 to read as follows:

(d) Each eligible recipient shall establish a local advisory council which has an appropriate representation of both sexes and an appropriate representation of the racial and ethnic minorities found in the program areas, schools, community, or region which the local advisory council serves.

§ 104.111(b) *Local advisory council establishment.*

Comment. A few commenters asked whether the regulation governing the establishment of local councils precludes the possibility of LEAs establishing local advisory councils on a regional basis with other LEAs. In the same connection, some commenters asked whether one council may serve more than one eligible recipient.

Response. Section 104.111(b) of the regulations is based on section 105(g)(1) of the Act which provides in part that "local advisory councils may be established for program areas, schools, communities, or regions, whichever the recipient determines best to meet the needs of that recipient." The eligible recipient, therefore, has the option to establish a local council which also serves another eligible recipient in the same geographical region of the State. For example, an LEA and a community college in the same region may decide to establish one local council to advise both recipients. This arrangement may be highly desirable for both recipients in the event they are striving for greater articulation between secondary and postsecondary interests. Accordingly, no change is made in the regulation.

§ 104.111(d) *Craft committees.*

Comment. A commenter pointed out that the regulation implies that only advisory councils would be required at the local educational agency or postsecondary level, despite the fact that advisory assistance through craft committees to each vocationally-funded teacher is considered essential to insure an effective instructional program.

Response. There is no intent to diminish the importance of craft committees. In fact, by making reference in the regulation to "representatives from several craft committees, * * *" the regulation assumes that craft committees are in existence and will be continued. No change is made in the regulation.

§ 104.111(d) *General local advisory council.*

Comment. A commenter suggested that paragraph (d) of § 104.111 be eliminated since it appears to be in conflict with paragraph (a) wherein eligible recipients are required to establish local advisory councils. It is contended that this paragraph, by suggesting that existing craft committees "may join together" to form an advisory council, takes away from the eligible recipient the responsibility for determining the make-up and method of establishing its council.

Response. The regulation is considered to be merely suggestive of a method of establishing the mandated local advisory council where craft committees or school councils already exist. It is intended to be supplementary to paragraph (a) rather than in conflict with it. No change is made in the regulation.

§ 104.112 *Public meeting.*

Comment. A commenter suggested the addition of a requirement for the local advisory council to hold not less than one public meeting each year at which time the public is given an opportunity to express views concerning the programs being offered by the local educational agency and the postsecondary educational agency.

Response. While the recommendation has merit, it is not appropriate to assign additional duties to the local advisory council when there is no authority for funding. No change is made in the regulation.

§ 104.112(b) *Local advisory council duties.*

Comment. Commenters suggested that mandating local advisory councils to "assist" the eligible recipient in developing its application goes beyond Congressional intent and would exert an undue hardship on local educational agencies. Commenters also suggested that local advisory councils be required to take an active role in the evaluation of local programs.

Response. The first recommendation is accepted. Since the Act in section 108(a)(4)(A) uses the word "consultation," the regulation is rewritten to state "consult with" in place of "assist".

With respect to the issue of whether local councils are to conduct evaluations, section 105(g)(1) provides that the local council advise the eligible recipient on the degree to which the courses being offered by the eligible recipient meet current job needs in the area. Although this activity may be viewed as a minor component of program evaluation, it should not be considered the equivalent of evaluation. Furthermore, since the Act does not provide any funding for the local councils, assigning the costly function of evaluation to the local council does not seem appropriate. However, it is expected that local councils will make extensive use of secondary data sources and any relevant evaluations that are made by other agencies. No change is made in the regulation.

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

§ 104.121 *Establishment of the National Occupational Information Coordinating Committee (NOICC).*

Comment. A commenter recommended that a section be added, prior to the state-

ment on the State Occupational Information Committee (SOICC), on the establishment of NOICC.

Response. The recommendation is accepted. Although the regulation does not include rules governing NOICC and SOICC, or other rules governing internal Federal organization, SOICC is described, and for consistency, NOICC is also described. A new § 104.121 on NOICC has been added.

STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

§ 104.121 *Fiscal agent for State Occupational Information Coordinating Committee.*

Comment. Several commenters recommended that the regulation identify the fiscal agent for the State Occupational Information Coordinating Committee (SOICC). Some of the commenters suggested that the State board for vocational education should be the fiscal agent. One commenter suggested that the Governor should appoint the agent.

Response. The regulation, as written, does not state who the fiscal agent shall be. NOICC, when making funds available to SOICCs, may require the establishment or naming of a fiscal agent. No change is made in the regulation.

§ 104.121 *State Advisory Council involvement with State Occupational Information Coordinating Committee.*

Comment. A commenter, noting that a representative of the SACVE is not named in section 161(b)(2) of the Act as a member of the SOICC, recommended that the regulation encourage SACVE involvement in the development of the State's occupational information data system which SOICC will develop and SACVE will use.

Response. The Act (section 161(b)(2)) and the regulation (§ 104.121(b)) set forth the required membership of SOICC. SOICC officially will be made up of representatives of only the four agencies named. Additional involvement with individuals and agencies may take place. No change is made in the regulation.

§ 104.121(c) *Representatives on State Occupational Information Coordinating Committee.*

Comment. A commenter suggested that the Governor, rather than the respective agency, should appoint the agency's representatives on SOICC. Another commenter suggested that staff represent the State Manpower Services Council rather than a member of the Council. Another recommended that the chief executive officer be the representative. Others suggested that the Governor should appoint additional members such as representatives of the CETA prime sponsor, guidance and counseling personnel, and career education personnel.

Response. Section 161(b)(2) of the Act states that SOICC shall be composed of a representative of each of four designated State agencies; § 104.121(b) carefully follows the Act. In paragraph (c) it is stated that the "representatives shall be selected by the respective State board, agency, or council." The Commissioner believes this is the proper interpretation of the word "representative," i.e., a person chosen by the group he or she represents. The Commissioner also believes that the representatives of the four designated groups should make up the entire voting membership of SOICC. The State might, however, appoint other observers or non-voting members. Therefore, no change is made in the regulation.

GENERAL APPLICATION

§ 104.141(c) *General application amendment.*

Comment. A commenter questioned the provision of § 104.141(c) that amendments to the general application be made only if and when "provisions of section 106 of the Act are changed or expire." For example, it was suggested that if a State changes its fiscal control and accounting procedures under assurance (7), this should be reflected by amending the general application.

Response. The assurances are comprehensive in coverage and obligate the State to adhere to the provisions of the general application in the future. Hence any change in procedures by a State would also be subject to compliance with the assurance on file, and no amendment to the general application is necessary. At such time, however, that a change in procedures violates the assurances of the general application, the State should notify the Commissioner accordingly. No change is made in the regulation.

§ 104.141(e) *Procedures to carry out assurances.*

Comment. A commenter stated that the procedures to be included in the five-year State plan for assurances 4, 5, 9, and 10 are not mandated in the Act, and that the requirement is inconsistent and arbitrary since procedures are not required for other assurances. The commenter suggested that the requirement be deleted.

Response. Section 109 requires determination by the Commissioner that adequate procedures exist "to insure that the assurances of the general application" will be carried out. Accordingly, it was determined that assurances 4, 5, 9 and 10 require a description of procedures in order for the Commissioner to approve a plan as being in compliance with the law. No change is made in the regulation.

§ 104.141(f)(4)(A) *Consultation with Prime Sponsor.*

Comment. A commenter recommended revision of § 104.141(f)(4)(A) to include a representative of prime sponsors in those areas where there is a prime sponsor.

Response. Section 104.141(f)(4)(A) provides that the annual application be developed in consultation "with representatives of the educational and training resources available in the area." While prime sponsors are not specifically named, they are certainly recognized as a training resource and should be consulted. No change is made in the regulation.

§ 104.141(f)(5) *Consistency with the Handicapped Act.*

Comment. A commenter suggested the addition of "(C) have the State vocational education plan be fully consistent with the State plan under the Education for All Handicapped Children Act of 1975 and the Federal regulations under that Act."

Response. Section 104.141(f)(10) restates the Act and requires that funds used for programs for the handicapped be consistent with the State plan under the Education of the Handicapped Act, which includes the Education for All Handicapped Children Act and the regulations under that Act. Therefore, the suggested phrase is a duplication. Also, a new regulation, § 104.5 has been added which cross-references the requirements in Part B of the Education of the Handicapped Act. Each State education agency should read the relevant regulatory provisions in 45 CFR Part 121a since those regulations provide the specific rules which govern the expenditure of Federal vocational education funds for handicapped children within the State.

§ 104.141(g) (Renumbered § 104.141(f)(11)) *Assurance of cooperation with NCES.*

Comment. Several commenters suggested that the assurance in § 104.141(g) be deleted since there is an inconsistency with the assurance in § 104.141(f)(3) which requires supplying information to the Commissioner. It was contended that the Administrator of the National Center for Education Statistics (NCES) should get any information needed from the Commissioner. One commenter indicated that this assurance is a duplication and, in fact, may cause great confusion in terms of the report that is collected. Two of the commenters suggested the regulation was more stringent than the Act in using "shall assure" rather than the Act language "shall cooperate."

Response. Section 161(a) places responsibility for operating the national vocational education data reporting and accounting system with the Administrator of NCES, after jointly developing with the Commissioner the information elements and uniform definitions. Accordingly, the Commissioner believes it is essential to require an assurance that the State will cooperate with NCES in supplying the data jointly agreed to be collected under the system. No change is made in the regulation.

§ 104.141(h) (Renumbered § 104.141(f)(12), *Indian participation.*

Comment. Several commenters questioned the inclusion of the assurance in § 104.141(h) since this is not contained in the law and suggested it be deleted. Other commenters proposed revised language for clarification that the State board does not allocate funds directly to Indian tribal organizations.

Response. Because of the potential for excluding Indians from the regular vocational programs, the recommendation for revision is accepted and the assurance in § 104.141(f)(12) will now read:

"The State board shall also assure that students served by Indian tribal organizations applying for or receiving funds under the Commissioner's discretionary programs, under the authority of section 103(a)(1)(B) of the Act, shall be afforded the opportunity to participate in vocational education programs administered by the State.

DEVELOPMENT OF FIVE-YEAR STATE PLAN

§ 104.161 *Development of five-year State plan.*

Comment. A commenter recommended that consideration be given to more appropriate planning and management procedures. The opinion was expressed that the planning process suggested is completely outdated, and that learner-oriented goals for vocational education should be used instead of goals based on employment needs. Further, if the legislation stressed what outcomes are desirable, States could use their own discretion as to how to achieve these outcomes.

The same commenter recommended that every effort be made to secure additional funding for planning and evaluation purposes and also make provision to compensate the representatives involved in the planning group.

Response. The language of the regulation concerning the planning process follows closely the Act. The State may, of course, employ planning procedures beyond those specified so long as the State plan requirements are met. The matter of changing the planning procedures and obtaining additional funding must be resolved through the legislative process. No change is made in the regulation.

§ 104.161 *Time for development of a model plan.*

Comment. Several commenters indicated that the period of time for development of plans is too short. One commenter suggested that the five-year State plan be revised by July 1, 1978, on a one time basis, since lack of experience and the short deadline for the initial plan will make it difficult for States to prepare a model plan by July 1, 1977.

Response. The Commissioner has no authority to waive the requirement of a complete five-year State plan by July 1, 1977. While States may not be able to develop an exemplary plan initially, the minimum requirement must be met. It is anticipated that States may wish to make amendments to improve the plan during the first year. In addition, the updating procedures in the annual program plan provide a mechanism for change and improvement of the five-year State plan. No change is made in the regulation.

§ 104.162 *Local Educational Agency (LEA) input to State plan.*

Comment. A commenter suggested that, while use of a representative group for planning is a good procedure, input and data from local educational agencies should be used as one of the key bases for formulating the State plan.

Response. While not specifically so outlined, Sections 107 and 108 of the Act rely heavily on input and data from eligible recipients in formulating both the five-year State plan and the annual program plan. The plans in fact constitute an aggregation of the State's total effort in vocational education, and the State must reply on the eligible recipients for this date. No change is made in the regulation.

§ 104.162 *Appointing authority for selecting representatives.*

Comment. Commenters objected to the requirement that the appointing authority under State law designate the representatives for § 104.162(e), a local school board; § 104.162(f), vocational education teachers; and § 104.162(g), local school administrators. These objections were based on the commenters' interpretation that these appointments might be political appointments by the Governor. These commenters expressed a preference for a requirement that each of the agencies appoint its own representative.

Response. The language of the Act reads: "as determined by State law." This language was subject to interpretation and was construed to mean the appropriate appointing authority in the State. Accordingly, the language "as designated by the appropriate appointing authority" was added to § 104.162 (e) through (g) to assign the responsibility for appointing these three representatives to the individual or State agency (i.e., the Governor or the State board) having authority to make appointments under State law. No change is made in the regulation.

§ 104.162 *Representation on planning group.*

Comment. A number of commenters suggested additional representatives and rationale for their inclusion in the development of the five-year State plan. The list included: Four-year institutions of higher education, State educational agency responsible for education programs for the handicapped, State agency on aging, State agency administering the vocational rehabilitation program, and State Commission on the Status of Women.

Response. The Act is specific relative to membership on the planning group. It is inappropriate for the regulation to require additional representation on the planning group beyond the representatives of the ten groups specified in Section 107(a) (1) of the Act. States may involve the above groups and other groups it wishes to include in the planning process; however, only those ten groups designated by the Act constitute the decision-making group. Other groups are encouraged to provide input either directly to the planning group or through the public hearing process. No change is made in the regulation.

§ 104.162 *Number of representatives on the planning group.*

Comment. Two commenters raised the question of whether it would be appropriate for a State to have participants other than the ten representatives specified in section 107(a) (1) of the Act involved in the decision-making process regarding provisions of the State plan.

Response. While representatives of other groups may participate in the planning process, only one designated representative from each of the ten groups specified in section 107(a) (1) of the Act must be involved in the approval of the provisions of the five-year State plan or the annual plan. No change is made in the regulation.

Comment. A commenter asked if it is possible for the State board to design the membership of the planning group in such a way that the State educational agency's personnel constitute a majority of the voting membership. This commenter also wanted to know whether the State board may appoint several persons for each category or if it is limited to only one representative for each.

Response. Although there is no requirement that each representative to the planning group have a vote, the responsibility for decisionmaking regarding approval of the provisions of the State plans is limited to one designated representative for each of the ten categories set forth in section 107(a) (1) of the Act. One person may represent more than one of the ten categories if the agency he or she represents has responsibility in more than one of the designated areas. No change is made in the regulation.

§ 104.162(f) *Representatives of vocational teachers.*

Comment. A commenter recommended that "including guidance specialist" be added after "vocational education teacher" in § 104.162(f). Another commenter recommended that the regulation preclude supportive staff being included in the vocational teacher category.

Response. While certain guidance personnel may be considered vocational education teachers, the regulation does not go beyond the Act in requiring the inclusion of such personnel. The Commissioner believes the State law will determine which supportive staff, if any, are eligible. No change is made in the regulation.

§ 104.164(b) *State plan content relative to rejected recommendations.*

Comment. Concerning the inclusion of rejected recommendations in the State plan, a commenter suggested that the regulation should require only a summary of the recommendations rejected and the reasons for rejection rather than the original correspondence and any primary data.

Response. Section 104.164(b) requires only a listing of the rejected recommendations, the individual, agency, or council making the recommendation and the reason for rejection. These items in fact constitute a summary and should not result in a voluminous data requirement. No change is made in the regulation.

§ 104.164(b) (1) *State board adoption of State plan.*

Comment. One commenter recommended that the language in this paragraph be changed to read, "Any recommendation which is rejected by the State board indicating its source," rather than "and its source."

Response. The recommendation is accepted. This change in language will clarify the requirement that the State board specify the particular agency making the recommendation.

§ 104.165 *Public hearings.*

Comment. Several commenters objected to the phrase "Prior to adoption" in § 104.165 (a) (1) because it seems to compromise significantly the entire purpose of public hearings on the plan. In their view, the regulation permits a State to conceive, develop, and draft the plan without any significant input from the public. Their further contention is that the plan, once drafted, would not likely be changed. It is suggested that the phrase be changed to read: "Before the plan is written."

Response. The recommendation is accepted in part. The opportune time to hold public hearing is during the period of the plan's development. Accordingly, the regulation is changed to require the hearings "during the development, prior to adoption." If public hearings were held prior to the preparation of an initial draft, it would be difficult for the public to provide any meaningful direction since there would be no framework to initiate public discussion and reaction. Public input can be most important after there is a draft of the plan; however, the State may hold public hearings before there is a first draft or at any stage during the development of the plan when input may be useful.

§ 104.165(a) (3) *Public hearings by region.*

Comment. Commenters requested a definition of "all regions of the State." A few commenters suggested that several definitions be developed so that the State may choose from among them. Definitions suggested include (1) commonly recognized geographic divisions, (2) quadrants, and (3) areas feeding vocational-technical schools.

Response. Since most States have recognized regional divisions, it would be preferable to leave to the State how to define its regions and how best to serve the populace in the respective regions with regard to holding public hearings. No change is made in the regulations.

§ 104.165(c) *Public views included in State plan.*

Comment. A commenter suggested that, because of the volume of paperwork involved in including all views expressed at the public hearings in the State plan, only a summary of those views be included along with an explanation of how the State board plans to consider those views.

Response. Provisions of §§ 104.165(c) and 104.171(d) are intended to require inclusion of a summary of the views expressed at the public hearing and written comments submitted rather than letters, statements, and other primary data. Also to be included are the plans to implement those views accepted and the reasons for rejecting those views not included as part of the plan. No change is made in the regulations.

§ 104.165(c) (3) *Public hearings.*

Comment. A commenter recommended that the phrase "accepted for inclusion" be substituted for the term "included" in line 2 of § 104.165(c) (3).

Response. The recommendation is accepted. The revision will provide greater clarity to the State board's responsibility of setting forth the reason for rejecting any view submitted. The regulation is changed to read: "The reasons for rejecting any view which is not accepted for inclusion in the five-year State plan."

§ 104.171 *Certification of plans.*

Comment. A commenter recommended that this regulation include a paragraph which states: "The approval of an application under this part does not relieve an applicant agency of the responsibility to carry out its project or projects in accordance with the general application,, the statute, and applicable regulations." The commenter felt this paragraph was necessary because the State board might consider compliance with certification requirements tantamount to approval by the Commissioner and write its plans accordingly.

Response. Section 104.171 requires a number of certifications regarding the State plan but does not serve as a guide for preparing the plan. Specific requirements for the content of the five-year State plan are set forth in §§ 104.181 through 188, and these detailed requirements must be adequately described before the Commissioner will approve a plan. No change is made in the regulation.

§ 104.171 *Number of certifications required.*

Comment. A few commenters suggested that many more certifications are required by the regulation than are mandated by the Act. A further comment was that the signature of each representative on the planning group required in § 104.171(b)(2) goes beyond the law and could be embarrassing to some of the signers.

Response. The inclusion of additional certifications in § 104.171 is intended to clarify statutory requirements necessary for compliance. By signing the certification required in § 104.171(b)(2), each representative on the planning group merely certifies that he or she had the opportunity to take an active part in formulating the plan. No change is made in the regulation.

§ 104.181 *Guidelines.*

Comment. Several commenters requested that the Office of Education reconsider the issue of promulgating separate guidelines for State plans. The view was expressed that, in fact, the proposed regulations are not precise, particularly with regard to State plans and State administration. They fear that plans will be weak and will not comply with the law. Concern related especially to the need to have State plan sections dealing with elimination of sex bias and sex stereotyping evaluated by persons with special knowledge of those issues.

Response. Public response to the Notice of Intent was divided on the issue of the need for additional guidelines. The Commissioner concluded that it was preferable not to issue separate guidelines, but rather to issue regulations which specify precisely what is required by the Act. With respect to the statutory requirements, the States will have considerable flexibility in determining how to meet the requirements of the Act and the regulations in the development of the State plan. Regarding the review of the plan, particularly in the area of sex bias and sex stereotyping, that review is one of the functions of the full-time personnel to eliminate sex bias listed under § 104.75, and § 104.171 (g) requires that this personnel certify that they have had an opportunity to review the plan. No change is made in the regulation.

§ 104.182 *Procedures to assure compliance.*

Comment. A commenter felt that the regulations have an inordinate number of very specific requirements which would, in effect, reduce the State's options. As an example, the commenter cited § 104.182 and suggested that this regulation be deleted.

Response. The language of the regulations follows closely the language of the Act. The procedures to assure compliance contained in § 104.182 are deemed necessary by the Commissioner as a minimum to comply with section 109(a)(1) of the Act. No change is made in the regulations.

§ 104.182 *Additional procedures.*

Comment. A commenter suggested that the State Commission on the Status of Women in each State be designated as the agency to review the compliance procedures and to make a public statement as to the degree of progress relative to the elimination of sex role stereotyping.

Response. Although the State Commission on the Status of Women is encouraged to study the progress being made within a State to eliminate sex bias, there is no legal basis for requiring that Commission to monitor compliance procedures in the State. The personnel working to eliminate sex bias, under § 104.72, must review State plans and State programs, particularly for elimination of sex bias and sex stereotyping. The Commission may work with this personnel in accomplishing the functions under § 104.75. Also, the Commission may provide input annually to the State board through the public hearing process. No change is made in the regulation.

§ 104.182(f) *Consistency with Handicapped Act*

Comment. Two commenters recommended that the reference in this section to "child" be changed to "student" so that it includes not only children but adults as well.

Response. Section 106(a)(10) requires that the use of funds for the handicapped under section 110(a) of the Act be consistent with section 613 of the Education of the Handicapped Act. Section 613 requires an individualized educational program for handicapped children in certain age ranges and does not apply to any person over 21 years of age. Accordingly, to be completely consistent with the Handicapped Act, and to make clear that the applicability is to children, not adults, it is appropriate to refer to "child" rather than "student." No change is made in the regulation.

§ 104.182(f) *Additional citations.*

Comment. A commenter suggested that the applicability of Section 504 of the Rehabilitation Act of 1973 be specified. Another commenter suggested that "and the Education for All Handicapped Children Act of 1975" be added to the last sentence of § 104.182(f).

Response. The correct citation is the Education of the Handicapped Act, which was amended by the Education for All Handicapped Children Act of 1975. With respect to the applicability of Section 504 of the Rehabilitation Act of 1973, the Department promulgated final regulations on May 4, 1977, at 42 F.R. 22676. This regulation, which applies to all recipients of Federal assistance from HEW, including State Departments of Education and local educational agencies receiving vocational education funds, is intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap.

§ 104.183 *Assessment of employment opportunities.*

Comment. A commenter requested that the assessment of current and future needs for workers specify workers "of all ages."

Response. While there is some rationale for specifying the need for workers by age, it does not seem appropriate to go beyond the Act in mandating these data. Further, it is doubtful whether the data are readily available. No change is made in the regulation.

§ 104.184 *Limitation to four specified elements.*

Comment. A commenter suggested that § 104.184 limits unduly the flexibility of the plan and recommended that the words "at least" be added after "of" in the first paragraph. The regulation would then read: "This description shall be in terms of at least the following four elements * * *."

Response. The State may include in the plan any information it desires beyond that specified in the regulation as long as mandated requirements are met. Therefore, the State may describe its goals in terms of additional elements beyond the four elements specified. No change is made in the regulation.

§ 104.184(c) *Allocation of funds by institution.*

Comment. A commenter recommended that the regulation be changed to read "various types of institutions" instead of "various institutions." Other commenters felt that reporting program allocations by school district would result in too much detail.

Response. The first recommendation is accepted. The added language will clarify the intent of the regulation. In response to the second comment, only the annual program plan includes the proposed distribution of funds listed by eligible recipient and is mandated by section 108(b) of the Act. The five-year State plan includes allocation of funds by various types of institutions.

§ 104.184 (c) and (d) *Inclusion of CETA as an institution.*

Comment. A commenter suggested including CETA in "among the various institutions of the State."

Response. The provision for coordination with CETA is set forth in § 104.188. Furthermore, CETA is not an institution, and the Act provides no authority for including it with the "various institutions of the State." No change is made in the regulations.

§ 104.185(a) *Meaning of "as precisely as possible."*

Comment. A commenter asked what the phrase "as precisely as possible" means and asked if each State is to make its own interpretation. Another commenter suggested the deletion of the words "as possible" from the phrase in order to clarify the meaning.

Response. The recommendation to delete "as possible" from the phrase is accepted. Section 104.185(a) and 104.186 (a) and (c) will read: "set forth precisely." In light of this modification, the term does not appear to need further interpretation.

§ 104.186(c) *Special needs of older people.*

Comment. A commenter suggested that § 104.186(c) specify that the State plan must set forth funding to meet the special needs of older people, including persons over 65 years of age.

Response. The definitions of the handicapped and the disadvantaged do not identify specifically "older persons." The definitions include persons of all ages having special needs which cannot be met in the regular vocational education program without special assistance. While there is nothing to preclude the use of these funds for older persons, provided they meet the specific requirements, there is no statutory basis for including them as a separate category. No change is made in the regulation.

§ 104.186(d) *Matching set-aside funds.*

Comment. A commenter recommended that paragraph (d) of § 104.186 be deleted, since neither Section 107 nor Section 110 of the Act requires State and local matching funds for this purpose to be included in the five-year State plan. It was suggested that documentation regarding the matching requirements be included in the accountability report.

Response. While the matching of funds for the national priority programs is not specifically required in Section 107 of the Act, nor in the accountability report, it is essential to include this information in order to provide a complete plan of uses of all Federal, State, and local funds. It should be noted that the annual program plan and accountability report constitute an updating and tracking of the five-year State plan. No change is made in the regulation.

§ 104.187 *Eradicating sex discrimination.*

Comment. Several commenters observed that the mandate to simplify regulations has been carried to the extreme and recommended that this regulation spell out in detail how vocational opportunities, particularly for women, will be expanded. One of the commenters stated that the State plan should include (1) an assessment of the current status of vocational education with respect to equality of access to and equality of use of vocational education programs by both sexes, and (2) goals and timetables for achieving the changes the State intends to make. Another commenter recommended that States establish an incentive system in which priority is given to LEA applications that indicate both strategies and the commitment to overcome sex bias and sex stereotyping. Commenters also charged that public comments on the Notice of Intent issue of incentives were ignored and believe that incentives are necessary. Another commenter suggested that the reference to "both men and women" is not compatible with § 104.75 (d).

Respone. The regulation outlines the requirements of the Act but purposely allows the State ample flexibility in meeting these requirements. It is anticipated that the content of the five-year State plan will be improved, particularly in the area of elimination of sex bias and sex discrimination, by updating through the annual program plan as a result of the activities of the personnel under § 104.75. Regarding incentives, the State is required by the Act to provide incentives for eligible recipients but has flexibility in developing a system of priorities for these incentives. The reference to "both men and women" is taken directly from the Act. No change is made in the regulation.

§ 104.187 *Eradicating sex discrimination.*

Comment. A commenter suggested that the term "eradicate" is a strong mandate for something which vocational education may have little control over and should be changed to a less strongly worded intent.

Response. The term "eradicate" as used in relation to sex discrimination is from the legislative history and appears to be synonymous with the term "overcome" used in the Act. No change is made in the regulation.

§ 104.187(a) *Quota for equal access.*

Comment. A commenter recommended that the words "but not necessarily quotas" be added in the sentence following "to ensure equal access."

Response. It is not appropriate for the regulations to require quotas for enrollments in vocational education programs. The States are required to set forth in detail their policies and procedures "to ensure equal access." Although some States may apply a system of quotas as part of these procedures, it is not mandated by the Act or regulations. No change is made in the regulation.

§ 104.187(a) *Time for planning.*

Comment. A commenter objected to including the requirements of § 104.187(a) in the five-year State plan due on July 1, 1977, since funds are not yet available for the persons who will do the work.

Response. The Commissioner is not authorized to waive this requirement for the initial year of the legislation. Although it is probable that, when in place, the full-time personnel to eliminate sex bias will work on this section of the plan, there is no requirement in the Act regarding who will develop this section of the plan. States have been encouraged to develop the best possible State plan in the limited time available and according to the requirements of the Act. The five-year State plan may be improved through the annual program plan updating or by amendment during the year. No change is made in the regulation.

§ 104.187(a) (2) (ii) *Sex stereotyping.*

Comment. A commenter suggested that § 104.187(a) (2) (ii) be changed to read: "Develop model programs to reduce sex stereotyping in training for all occupations," rather than "to reduce sex stereotyping in all occupations."

Response. The recommendation is accepted. While vocational education programs may not directly influence the reduction of sex stereotyping in all occupations, developing model programs which prepare persons of both sexes for occupations may have a positive impact on reducing sex stereotyping in occupations. Accordingly, inserting "in training for and placement in all occupations" will assure that the program proposed by the eligible recipient will focus on the reduction of sex stereotyping.

§ 104.188 *Coordination with CETA.*

Comment. Several commenters expressed concern about the implementation of coordination between vocational education and CETA. One commenter suggested that additional agreements may be needed at the national level. Another commenter suggested that the required "description of the mechanism established for coordination" may be reduced to mere observance of form. The recommendation was that more concrete links, such as mutual signature of plans, should be required.

Response. Section 104.188 requires the five-year State plan to describe the mechanism established for coordinating vocational education programs with manpower training programs. While only this description of the working relationship is required in the five-year State plan, the annual program plan in § 104.222(e) requires reporting of the results of the coordination annually in order to assure consistency from year to year. In addition, the statutorily created National Occupational Information Coordinating Committee will provide for coordination between vocational education and CETA at the national level. At the State level, a representative of the State Manpower Services Council is required to be a member of the planning group for the State plan, of the State Advisory Council, and of the State occupational information coordinating committee. Since the regulation repeats the language of the Act, the States are free to include in the plan those concrete links, such as mutual signatures, which they consider desirable. No change is made in the regulation.

DEVELOPMENT OF ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.203 *Due date of accountability report.*

Comment. A commenter felt that too much time is allowed between the end of the fiscal year and the due date of the accountability report for that fiscal year. The commenter felt that current program information could be provided in less than the nine months the proposed regulation allows.

Response. Some of the data included in the accountability report will be reported earlier in the vocational education data system to the National Center for Education Statistics for use in preparing the annual report to Congress and other purposes. Thus, certain data will be available sooner than the July 1 deadline. Section 108(b) of the Act, however, requires submission of the accountability report with the annual program plan on the July 1 preceding the beginning of the fiscal year for which the plan will be effective. This accountability report will list the accomplishments achieved during the fiscal year preceding the submission of the plan and report. No change is made in the regulation.

§ 104.22 *Annual program plan for 1978.*

Comment. A commenter recommended that reference to §§ 104.183 and 104.184 be included in § 104.221. The commenter also felt that the requirement to include in the State plan the proposed distribution of funds among eligible recipients is an unreasonable burden and suggested that this requirement be deleted.

Response. The first recommendation is accepted. The reference to §§ 104.183 and 104.184 was inadvertently omitted from the NPRM. Section 104.221 is rewritten to include a reference in the second line to §§ 104.183 and 104.184.

In response to the second suggestion, the regulation follows the language of section 103(b) (1) (B) (ii) of the Act which requires the State plan to show the distribution of funds among eligible recipients. Therefore, this requirement cannot be deleted.

§ 104.222 *Five-year State plan update.*

Comment. Two commenters requested clarification regarding the yearly update of the five-year State plan. It was suggested that the five-year plan would stand as submitted with the annual program plan reflecting changes anticipated or projected which could affect the outcomes of the five-year plan.

Response. The five-year State plan will stand as it is submitted. The annual program plan will update any obsolete or inaccurate information in the five-year State plan relating to employment needs and goals for meeting these needs. The annual program plan will also include a more detailed description of how the funds projected in the five-year State plan will be used and any changes in funding proposed, along with the reasons for those changes. No change is made in the regulation.

§ 104.261 *Review of plans by full-time personnel to eliminate sex bias.*

Comment. A few commenters suggested that the full-time personnel to eliminate sex bias certify that they have made comments and recommendations on the State plan in addition to certifying that they have been afforded an opportunity to review the plan.

One commenter felt that it should be stated that the certification did not necessarily constitute an endorsement of the plan. Another commenter stated that the full-time personnel will not be employed until October 1, 1977, and therefore, cannot review the 1978 plan.

Response. In accordance with section 109 (a) (3) (B), the certification in § 104.261(d) provides evidence to the Commissioner that the opportunity to review the plan was afforded the full-time personnel. This certification does not preclude inclusion of any comments the full-time personnel wish to make. Indeed, one of the functions of personnel under § 104.75 is to make information readily available to the State board and the Commissioner. Comments on the State plan may be submitted with the certification or at any other convenient time. By certifying that an opportunity to review the plan was afforded, the full-time personnel are not necessarily endorsing the content of the plan. It is recognized that all States may not have the full-time personnel employed until October 1, 1977; nevertheless, it is the responsibility of the State to assure that the plan is in compliance with the Act. No change is made in the regulation.

§§ 104.261 and 104.262 *Criteria for approval of plans.*

Comment. A commenter asked if criteria will be developed to assist the Commissioner in determining that the State has set forth adequate procedures to carry out the general application assurances and the provisions of the plan.

Response. The requirements of §§ 104.182 through 104.188 and §§ 104.221 through 104.241 are detailed enough to provide adequate criteria on the basis of which the Commissioner can determine whether the State is in compliance with the Act. No change is made in the regulation.

§ 104.262(f) *Content of accountability report.*

Comment. A commenter recommended that the accountability report include course enrollment by race and by sex. It was contended that the report would be inadequate if it reports race and sex data without cross-tabulating them.

Response. To reduce duplication of reporting, the accountability report is not required to include program enrollment data by race or sex. These types of data will be supplied in the vocational education data system developed under section 161 of the Act. The data, therefore, are available to the State and may be included in the accountability report if desired. No change is made in the regulation.

§ 104.271 *Disapproval of plan.*

Comment. A commenter requested clarification of § 104.271(b) providing that the Commissioner will not disapprove a State plan solely on the basis of the distribution of State and local expenditures. The commenter asked which sections of the Act are covered by this provision.

Response. Since there is no legislative history to indicate otherwise, it is assumed that § 104.271(b) applies to all State and local expenditures for vocational education. Therefore, no change is made in the regulation.

HEARINGS BEFORE THE COMMISSIONER ON AGENCY OR COUNCIL CHALLENGES TO THE FIVE-YEAR STATE PLAN OR ANNUAL PROGRAM PLAN

§ 104.281 *Cost of appeal to the Commissioner.*

Comment. A commenter suggested that the cost of an appeal to the Commissioner should be borne by the agency bringing the appeal, particularly the cost of travel of the agency's representative.

Response. The cost principles governing the vocational education State-administered program are contained in Appendix B to 45 CFR Parts 100–100d. In general, these principles provide that a cost of the grant program may be reimbursed with Federal funds if the cost is necessary and reasonable for the proper and efficient administration of the program, unless specifically provided otherwise by Federal law and regulation or State or local law.

With respect to the legal expenses incurred during a section 107 appeal between two State agencies to the Commissioner, item 16 in Appendix B (45 CFR Parts 100–100d) is controlling. In accordance with this provision, if the legal services for the appeal are furnished by the State's Attorney General or staff, the costs would be unallowable because these attorneys would be discharging their general responsibilities. If one of the State agencies, however, retains private counsel because of a conflict of interest situation arising due to the State Attorney General representing two State agencies in an adversarial capacity, the legal expenses are allowable as a bona fide State administrative expense.

The travel costs of the agency representative involved in the appeal proceeding are also allowable in accordance with the principles contained in item 23 of Appendix B (45 CFR Parts 100–100d).

Since these principles are contained in the General Education Provisions Regulations, which are directly applicable to the Vocational Education Act, no change is made in the regulation.

§ 104.283(a) *Hearing officer.*

Comment. A commenter suggested there should be more than one hearing officer on a panel to hear an appeal to the Commissioner from agencies and council on State plans, as two or more hearing officers could share the responsibilities.

Response. Appeals on State plans should be heard promptly so that the plan may become effective as soon as possible. Although experience has indicated that it is difficult to obtain the services of hearing officers at short notice because of their prior commitments, it should be possible to obtain one experienced hearing officer in the prescribed time. However, if more than one hearing officer were to be used, three would be needed in order to avoid the possibility of a one-to-one tie vote. No change is made in the regulation.

§ 104.286 *Criteria for Commissioner's decision on appeal.*

Comment. A commenter suggested that the proposed regulations "completely miss the point" in not setting out objective criteria so that interested parties will know in advance by what standards an appeal to the Commissioner will be judged, and so that the criteria can be uniformly applied to all States engaged in appeals to the Commissioner.

Response. The Act (section 107 as to the five-year State plan, section 108 as to the annual program plan) does not require, or authorize, the Commissioner to set criteria for the Commissioner's decision. The Act says that the Commissioner shall afford an opportunity for a hearing and "shall determine whether the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act." Substantial evidence is a legal term which is used in relation to the standard for judging evidence in administrative hearings and on appeals to the courts. The regulation (§ 104.286(c)) uses the legal term and gives it the meaning given by the Supreme Court in the case of *Consolidated Edison Co. vs. National Labor Relations Board* at "305 U.S. 197, 229 (1938)." This definition of "substantial evidence" has been cited and followed in numerous administrative hearings and court cases since it was defined by the Supreme Court in the 1938 opinion. The legislative history in relation to the hearing (House Report No. 94–1085; Senate Report No. 94–882, p. 76; Conference Report No. 94–1701, p. 221) makes no reference to separate criteria.

Since it cannot be anticipated what part of the State plan may be the subject of the appeal, it would be very difficult, if not impossible, to set criteria, as recommended by the commenter, in relation to every possible appeal for the source of the evidence, the purposes of the Act, or for determining what the Commissioner believes will best carry out the purposes of the Act. No change is made in the regulation.

§ 104.287 *Determinations on appeal.*

Comment. The same commenter objected to the requirements in § 104.287(a) (1)–(4) as being "a farce."

Response. These requirements are based on language in section 107(a) (1) of the Act and repeated in § 104.287(a) (1). The Act and the regulation first require the hearing officer to determine whether the procedures of that section (section 107(a) (1)) have been followed. Then § 104.287(a) (2) requires a finding that the State board's plan is legal. Paragraph (a) (3) repeats the "substantial evidence" rule of section 107(a) (1), and paragraph (a) (4) repeats the standard that the hearing examiner determine that the State board's decision (rather than the appealing agency's recommendations) "best carry out the purposes of the Act."

As to purposes, section 101 of the Act entitled "Declaration of Purpose" states the purpose of the Act, and the legislative history should also be reviewed to determine the purposes of the Act. It is the opinion of the Commissioner that any attempt to restate the purposes of the Act as criteria for any appeal to the Commissioner would in effect be limiting and would be substituting the Commissioner's view of the purposes for that expressed by the Congress. No change is made in the regulation.

§ 104.288(c) *Commissioner's decision on appeal of the State plan.*

Comment. A commenter suggested that if the Commissioner disapproves a State plan, the disapproval must be "based on a review of the entire plan."

Response. The Commissioner (through the hearing officer) will review the recommendations about the State plan made by the appealing agency or council and the State board's reasons for rejecting the recommendations. Depending on the nature of the recommendations, this may not require a review of the entire State plan. The language in § 104.288(c) is based on language on page 216 of the Conference Report which says that, if the Commissioner does not approve the part of the plan in contection, the Commissioner does not rewrite the plan, but disapproves of it "in its entirety" and returns it to the State board for revision. No change is made in the regulation.

§ 104.289 *Appeal of the Commissioner's action to the Court of Appeals.*

Comment. With respect to the section 107 (a) appeal, a commenter pointed out that § 104.289 of the regulation states that a "State board, agency, or council" may appeal the final action of the Commissioner to the Court of Appeals, whereas section 107(a) of the Act states only that any "agency or State

board" may appeal to the Court of Appeals.

Response. The regulation is amended to use the exact language of the Act. The right to appeal to the courts must depend on the language of the Act, not upon different language in the regulation. The House Report (H. Rept. No. 94–1085, p. 36) states: "After the Commissioner makes this determination, any dissatisfied agency or State board (but not the State advisory council on vocational education or the State Manpower Services Council) may appeal the Commissioner's decision to the Federal circuit court of appeals."

FISCAL REQUIREMENTS

§ 104.301 *Zero-based budgeting.*

Comment. A commenter, after pointing out that zero-based budgeting forces programs to analyze periodically their goals and objectives, to evaluate results regularly, and to spotlight duplication of effort, recommended that the regulation require zero-based budgeting by both Federal and State programs.

Response. In keeping with the general practice that the regulations do not regulate internal Federal matters, a statement that the Office of Education shall use zero-based budgeting is not set forth in the regulation. As to the States, a requirement in the regulation that the States adopt zero-based funding would interfere unduly in the States' own administrative matters. Therefore, no change is made in the regulation.

FEDERAL SHARE

§ 104.301(d) *Matching in-kind.*

Comment. A commenter asked whether the prohibition against using in-kind contributions to meet the matching and maintenance of effort requirements applies to both State and local levels.

Response. Section 104.301(d) provides that only actual expenditures of State and local funds shall be accepted as part of the State's matching and maintenance of effort requirements. This means that the prohibition against the use of in-kind contributions applies to both State and local levels. No change is made in the regulation.

§ 104.302 *Distribution of funds for men and women.*

Comment. A commenter suggested that the distribution of Federal funds should be controlled so that the availability of funds to men and women is equal.

Response. The Commissioner is prohibited by section 421A(c)(2)(B) of the General Education Provisions Act from imposing a funding distribution method different from that specified in the law authorizing the appropriation. Since the Act contains no authority for distributing funds equally among men and women, the Commissioner is not authorized to require it by regulation. No change is made in the regulation.

§ 104.302(a) *Matching requirements.*

Comment. A commenter stated that the 50 percent matching provision in § 104.302 (a) is in error because some program sections allow 90 percent.

Response. Section 104.302(a) contains the general statutory matching requirement in section 111(a) that the Commissioner will pay to each State an amount not to exceed 50 percent of the cost of carrying out its annual program plan. The exceptions to this general requirement are enumerated in other regulatory sections. Since the fiscal regulations are interdependent and must be read together, it is unnecessary to list all the exceptions to the general 50 percent requirement in one section of the regulation. No change is made in the regulation.

§ 104.303 *Matching for national priority programs.*

Comment. Many commenters recommended that the 50 percent matching requirements for programs for the handicapped and disadvantaged as set forth in § 104.303 be reconsidered. These commenters have stated that it is inequitable for the State and local school districts to pay 50 percent of the cost of these programs when they are already supporting vocational educational education at such a high percentage. To expect State and local programs to adhere to these matching requirements when the proportion of Federal funding is so small is unrealistic.

Response. Section 110 of the Act provides that Federal funds shall be used to pay up to 50 percent of the excess of programs, services and activities for handicapped and disadvantaged persons. Section 104.303 of the regulation is based directly on this statutory provision. Section 421A(c)(2)(B) of the General Education Provisions Act (the Cranston Amendment) prohibits any funds to be apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law. Accordingly, no change is made in the regulation.

§ 104.303(c) and § 104.314 *Postsecondary and adult programs.*

Comment. Several commenters have pointed out that the word "and" is omitted between paragraphs (1) and (2) of § 104.303 (c) and between paragraphs (a) and (b) of § 104.314 and recommend that it be added.

Response. This recommendation is accepted. The final regulation has added the word "and" between paragraphs (1) and (2) of subsection § 104.303 and between paragraphs (a) and (b) of § 104.314. Accordingly, in § 104.303(c) the Commissioner will pay an amount not to exceed 50 percent of the cost of both postsecondary *and* adult programs. In § 104.314, the State shall expend 15 percent of the section 102(a) allotment for both postsecondary *and* adult programs.

§ 104.303 *Mainstreaming requirements.*

Comment. A commenter suggested a new paragraph (d) be added to § 104.303 to read "Each State shall use, to the maximum extent possible, the funds required to be used for the purposes specified in subsections (a) and (b) to assist individuals described in those subsections to participate in regular vocational education programs."

Response. The mainstreaming requirement for handicapped persons is contained in § 104.312. The mainstreaming requirement for disadvantaged persons and persons of limited English-speaking ability is set forth in § 104.313(b). Since the inclusion of these provisions into § 104.303 would result in a duplication, no change is made in the regulation.

§ 104.305(a)(3) *Administrative costs.*

Comment. A commenter requested the deletion of the phrase "excluding State administration and ancillary services" in subparagraph (3) of § 104.305(a). The commenter pointed out that the Act has no such limitation.

Response. The comment has been accepted. Section 140(b)(1) of the Act provides that the State shall use Federal funds allocated for the Special Programs for the Disadvantaged to pay the full cost of vocational education for disadvantaged persons. Since State administration and ancillary services may be characterized as part of the full cost of the programs, expenditures for the administration of the program and ancillary services directly related to the program may be attributed to the section 102(b) allotment.

MINIMUM PERCENTAGES

§ 104.312 *Minimum percentage for the handicapped.*

Comment. A commenter suggested that because Part B of the Education of the Handicapped Act, as amended by the Education for All Handicapped Children Act of 1975, Pub. L. 94–142, mandates that each individual handicapped person be served in the "least restrictive environment," the regulation should require the States to use section 110(a) funds to the maximum extent possible to assist handicapped persons to participate in vocational education programs provided in the "least restrictive environment."

Response. Section 612(5) of Pub. L. 94–142 requires the State to establish procedures to assure that special classes or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Since funds used for the purposes of section 110 (a) of the Vocational Education Act must be consistent with the State plan submitted pursuant to section 613(a) of the Education for All Handicapped Children Act, the statutory requirement on least restrictive environments is binding on section 110(a) of the Vocational Education Act. Furthermore, § 104.182(f) of this regulation requires the vocational education programs for handicapped children to be planned and coordinated in conformity with and as a part of the child's individualized education program as required by the handicapped legislation. Therefore, no change is made in the regulation.

§ 104.313 *Minimum percentage for the disadvantaged.*

Comment. Many commenters expressed concern over the inconsistency in § 104.313 (a) and the overview of the regulations in the Notice of Proposed Rulemaking. Section 104.313(a) provides that the State shall expend "at least" 20 percent of the section 102(a) allotment for the disadvantaged. The overview of the regulations at 42 FR 18542 states "up to 20 percent."

Response. The statement contained in the overview concerning the minimum percentage for the disadvantaged is incorrect. The text should read "at least 20 percent to pay up to 50 percent of the costs of programs for the disadvantaged * * *" Since the language in § 104.313(a) is correct, no change is made in the regulation.

§ 104.313 *Minimum percentage for the disadvantaged.*

Comment. A commenter expressed a view that the proposed rules, which allow the local educational agencies to charge the cost of vocational education programs for the disadvantaged, would result in supplanting of funds. According to this commenter, a strong possibility exists whereby the schools in economically disadvantaged areas will take students who succeed in regular programs, identify them as disadvantaged, and charge the set-aside for complete teacher salaries. In order to avoid supplanting, the commenter suggested that an individualized plan for each disadvantaged student be developed which would indicate that supplemental assistance is essential to enable that student to succeed in the regular program.

Response. The term "disadvantaged" is defined in Appendix A. In accord with this definition, a disadvantaged person must re-

quire special services and assistance in order to succeed in vocational education programs. Students who can succeed in the regular vocational education program are not eligible for funding under the minimum percentage for the disadvantaged.

Furthermore, the dollar for dollar matching provision required by section 110(b) of the Act for programs for the disadvantaged would seem to preclude any possibility of supplanting of funds. The statutory "no-supplant" provision in § 106(a)(6) is designed to assure that the aggregate of State and local funds available for a specific purpose, such as the disadvantaged set-aside, is not reduced because of the receipt of Federal funds under the Act. Therefore, as long as the combined State and local funds match the Federal funds earmarked for the purposes of section 110(b), it is unlikely that a violation of the "no-supplant" requirement would occur.

The suggestion for requiring an individualized plan for the disadvantaged, as required for the handicapped, may be found desirable by some States but it is not mandated by the Act. Since this procedure is not required by the Act, it is not appropriate to be included in the regulation. Thus, no change is made in the regulation.

§ 104.313(b) *Minimum percentage for the disadvantaged.*

Comment. A commenter stated that because of the history of minorities and the disadvantaged in vocational education, it is critical for the regulation governing the national priority program for the disadvantaged to offer disadvantaged students a genuine opportunity and not the traditional "dumping ground." In order to accomplish this objective, the commenter suggested incorporating into the regulation reporting requirements on criteria for selecting students, the kinds of programs available, needs assessments, evaluation tools, and enrollment data.

Response. The suggestions offered by this commenter are already an integral part of the regulation. The criteria are set forth in Appendix A; the regulations contained in §§ 104.183 through 104.188 govern the various requirements pertaining to kinds of programs, needs assessments, and enrollment data; and §§ 104.401 through 104.405 set forth the program evaluation requirements. Since the commenter's recommendation is incorporated into the regulation, no change is made.

MAINTENANCE OF EFFORT

§ 104.323 *Reductions in expenditures.*

Comment. A commenter questioned the basis in §§ 104.323 and 104.324 for permitting reductions in expenditures for vocational education. The commenter contends that any reduction would be a violation of section 111(b) of the Act.

Response. The term "fiscal effort" as used in section 111(b) is not defined in the Act or in the legislative history. For the purpose of this regulation, therefore, the term relates to tax effort and takes into account the relationship between tax rate and tax base. If the tax base declines but the tax rate remains constant, fiscal effort is considered to be maintained even though the tax yield declines proportionately. If, on the other hand, section 111(b) was written in terms of absolute spending levels, rather than fiscal effort, then the regulation would not permit any flexibility or deviation from the base year.

Since in the Act the funding requirement is stated in terms of maintenance of fiscal effort, a tolerance of five percent or less, as set forth in § 104.323, can be justified on the grounds that the State's effort can be said to be sustained although there was a minor decrease in actual spending levels. An allowance of any more than five percent would risk transgressing statutory intent.

Similarly the unusual circumstance rule in § 104.324 is justified because an event which is out of the control of the State does not reflect a diminished fiscal effort. An event warranting such an exception must be unusual in the sense that the grantee clearly could not have anticipated it or compensated for it.

Accordingly, no change is made in the regulation.

STATE EVALUATION

§ 104.402 *Evaluation requirements.*

Comment. Several commenters were concerned by what they perceived as the excessive burden of performing all of the kinds of evaluation listed in § 104.402 (a), (b), and (c). Some recommended that subsections (a) and (b) be deleted for that reason. Other commenters wanted additional criteria such as "job mobility" and "student satisfaction." Several urged that the States be allowed to choose whether or not to use the suggested criteria. Most of these commenters wanted the State board to be free to determine and use the criteria for program and project evaluation which it considers to be most appropriate.

Response. It should be noted that while the Act requires evaluation during the five-year period of the effectiveness of each program or project, the numbered examples in paragraphs (a), (b), and (c) are only suggestive and the lists are not exhaustive. Therefore, with respect to § 104.402, the States already have the freedom of action described and desired by these commenters. The extent of the burden of evaluation will be determined largely by the State board. No change is made in the regulation.

§ 104.402 *Use of sampling for evaluation.*

Comment. Several commenters urged that the States be allowed to use sampling techniques in evaluating the effectiveness of their programs and projects of vocational education.

Response. The regulation does not preclude use of reasonable sampling procedures for the purposes of § 104.402. Therefore, the regulation has not been modified.

§ 104.402 *Evaluation of State and local programs.*

Comment. A commenter objected to the required inclusion of State- and locally-supported programs and projects in the evaluation, on the grounds that the Act does not contain this requirement.

Response. Paragraph (c) of § 104.301 states that "• • • every program or activity supported in whole or in part by State or local funds which are used to match Federal funds must meet the same conditions and requirements as those supported by Federal funds." Therefore, State and locally supported programs and projects cannot be exempted from the requirement. Thus, no change is made in the regulation.

§ 104.402 *Employer satisfaction.*

Comment. One commenter urged that the regulation permit and encourage the States to secure data on employer satisfaction and student performance by any means considered appropriate by the State, including surveys conducted by local educational agencies.

Response. Except for the data on program completers and leavers required by § 104.404, the States may perform the evaluations required by § 104.402 by any appropriate procedures. Therefore, the regulation has not been amended in this regard.

§ 104.402 *Financial and legislative limitations.*

Comment. One commenter urged the inclusion of evaluative criteria related to the financial limitations and other limitations set by the State's legislature.

Response. Since the lists of numbered criteria in § 104.402 (a), (b), (c), and (d) are only suggestive and not exhaustive, the States are already free to use additional criteria in their evaluation of program and project effectiveness. No change is made in the regulation.

§ 104.402 *Qualitative versus quantitative.*

Comment. A commenter finds confusing the requirement that program effectiveness and other essentially qualitative factors should be evaluated in quantitative terms. The recommendation is that the regulation be amended to read "• • • evaluate in quantitative and/or qualitative terms as appropriate • • •."

Response. The intent of the regulation is that the report of the evaluations be expressed in objective terms that facilitate verification and make possible the aggregation of data within a State and across States, rather than in subjective, impressionistic terms. For example, instead of describing services to women students in qualitative terms of "excellent" and "cooperative" attitudes and efforts of the staff, the regulation means to encourage reporting the facts as the number of women who enrolled in and completed each course traditionally reserved for men, the comparative numbers of men and women in the courses, and the number of each sex who found (or were placed in) employment in the field of training. The same kind of objective reporting would apply to all programs and projects supported under the Act. The recommended change is therefore not accepted because it would seem to encourage less objective and less useful kinds of reporting. No change is made in the regulation.

§ 104.402 *Services to special populations.*

Comment. A commenter found § 104.402 (d) "particularly inept and confusing" and recommended that services to women, members of minority groups, handicapped persons, and disadvantaged persons be measured by the same criteria used for measuring services to other students.

Response. The criticism is well taken. The intent of the regulation was that service to the named "special populations" should be measured by the same criteria as are used with all other students, and that in addition the State's evaluation would report on any other services provided for those special groups. The proposed regulatory language is not clear, and § 104.402(d) has been amended to read "The results of additional services as measured by the suggested criteria under paragraphs (a), (b), and (c) of this section, that the State provides under the Act to these special populations:"

Comment. A commenter recommended that paragraph (d) of § 104.402 be amended to mandate evaluation of the effectiveness of services to the special populations named there instead of making that part of the evaluation optional.

Response. The recommendation is accepted because the law not only requires evaluation of the effectiveness of all programs, projects and activities assisted under the Act, but also gives particular emphasis to those special populations. As amended, paragraph (d) becomes mandatory. In keeping with this rationale, a fifth special population category "persons of limited English-speaking ability" is added to paragraph (d).

§ 104.402 *Services to the handicapped.*

Comment. A commenter recommended that for each handicapped student, the State be required to include in its evaluation information about the instructional environment of the student, identification of the handicapping condition, and the specific occupational program in which the student is enrolled.

Response. The act provides no basis for requiring these data, and there is provision in other legislation, e.g., the Education of the Handicapped Act, as amended by the Education for all Handicapped Children Act of 1975, for reporting on services to handicapped students. Therefore, no change is made in the regulation.

§104.402 *Fluctuations of the economy.*

Comment. A commenter wanted the State's evaluation of the extent of placement of vocational education students in jobs to take into account changing economic conditions which affect the job market.

Response. Although the intent of such an amendment is meritorious, the recommendation is not accepted, because it would increase without statutory justification the already heavy burden borne by the State boards. The State board is, of course, free to take changing economic conditions into consideration in making the evaluation if it chooses to do so. No change is made in the regulation.

§ 104.404 *Follow-up of all students.*

Comment. One commenter interpreted § 104.404 to mean that follow-up data should be secured for only those "completers" and "leavers" who find employment, and urged that the follow-up survey both those employed and those unemployed.

Response. No modification of the regulation is required, since § 104.404(b)(1) will show whether or not the completer or the leaver found employment and whether the employment was or was not related to the vocational training.

§ 104.404 *Definition of program leaver.*

Comment. Two commenters recommended deletion of § 104.404(c)(2)(ii), "all other leavers," on the grounds that the inclusion of that part of the definition would require follow-up of students, for example, who enroll in a single vocational education course and leave two weeks later. This would impose an unreasonable burden if such a leaver must be included in the follow-up survey.

Response. The Commissioner is aware of the problem posed by students whose enrollment is of such limited duration that they should not be counted in any survey of program leavers. However, instead of setting by regulation a maximum duration of enrollments that are not to be counted, the Commissioner prefers that such guidance be furnished as part of the instruction for submission of required reports and data. No change is made in the regulation.

Comment. A commenter recommended changing the definition of "program leaver" to say that the leaver has nevertheless "acquired sufficient entry-level job skills to work in the field for which he or she was trained."

Response. It is the view of the Commissioner that the recommended change would eliminate from consideration in the evaluation and reporting those persons who do not acquire entry-level job skills either because they have not learned satisfactorily or have not been taught satisfactorily. It is believed that failure to include these persons in the report would violate the intent of the Congress. Therefore, no change is made in the regulation.

Comment. A commenter suggested that the definition of "program leaver" should be made parallel to the definition of "program completer" by adding in § 104.404(c)(2) that program leaver means a student who has been enrolled in and has attended a program of vocational education "which purports to teach entry level job skills."

Response. This suggestion has been accepted. It was intended that the definitions of "program completer" and "program leaver" be parallel. It was also intended to include the phrase "which purports to teach entry level job skills" in both definitions. The regulation has been amended accordingly.

§ 104.404 *Instructions by National Center for Education Statistics.*

Comment. Two commenters asked whether the NCES instructions and standards referred to in § 104.404(d) are mandatory or whether the State may choose to use a different reporting system.

Response. Use of the NCES instructions and standards is mandatory. The Act (sec. 161(a)(3)(B)) emphasizes and mandates reporting on program "completers" and "leavers." Without a uniform data reporting system it would not be possible to aggregate and report the data across States (i.e., nationwide). No change is made in the regulation.

§ 104.404 *Exclusion of homemaking job skills.*

Comment. Two commenters wanted the reference in § 104.404(a) to "entry-level job skills" to be expanded thus: "which purports to teach entry-level job skills, not to include the occupation of homemaking," on the grounds that it is unreasonable to try to evaluate the adequacy of training for homemaking.

Response. "Entry-level job skills" is interpreted as referring solely to paid employment, which eliminates from consideration homemaking by either spouse or parent. Homemaking by a paid housekeeper, nursemaid, or other such paid employee would be treated in the same way as any other gainful employment. No change is made in the regulation.

§ 104.404 *Scrutiny of teaching materials.*

Comment. A commenter urged the Office of Education to improve the effectiveness of program evaluation by examining vocational education courses and teaching materials to determine their "pertinency" and "currency," especially for the future needs of the nation.

Response. It is the view of the Commissioner that the effect of the recommendation would be to involve the Federal government in matters which are the prerogative of the States and local schools. No basis was found in the Act to support the recommendation. Therefore, no change is made in the regulation.

SUBPART 2—BASIC GRANTS

§ 104.502(b) *Distribution of basic grant funds.*

Comment. Many commenters objected to the mandatory reservation of funds under the basic grants in § 104.502(b) for special programs and placement services tailored to meet the need of the special populations described in § 104.621. Some of these commenters were concerned that if funds are reserved for displaced homemakers and other special groups, the remaining funds may be insufficient for vocational education programs described in § 104.511. Other commenters suggested that funding for programs for these special populations be attributed to another section of the law.

Response. Section 107(b)(4)(B) of the Act requires that the State set forth in its five-year plan a program to assess and meet the needs of persons described in section 120(b)(1)(2). This program will provide for special courses for these persons in learning how to seek employment and placement services for the graduates. Therefore, even though the Act attempted to consolidate numerous programs under section 120 to provide greater flexibility and discretion to the State, funding for programs for displaced homemakers as well as for full-time personnel to perform the functions in § 104.75 is mandatory. Funding for the balance of activities listed in section 120 is permissive. Neither the Act nor the regulation, however, requires a minimum funding level for programs for these special populations. The State must earmark an amount of funds it considers adequate to support the courses and services which are described in its five-year plan to meet the needs of these special populations. Accordingly, no change is made in the regulation.

§ 104.502(c) *Support for guidance under the basic grant.*

Comment. A commenter recommended that guidance and counseling be added to the list of purposes for which funds under section 120 of the Act may be used. The rationale for the comment is that guidance and counseling services are essential to the successful placement of individuals in careers.

Response. The Commissioner agrees that guidance and counseling are essential for the successful placement of individuals. However, the Act provides funding for this activity in subpart 3—Program Improvement and Support Services. Section 134 requires the State to expend at least 20 percent of the subpart 3 allotment for guidance and counseling services. Thus, no change is made in the regulation.

§ 104.502(c) *Consolidation of programs.*

Comment. A few commenters perceived the consolidation of the expansive list of programs, services, and activities in § 104.502(c) as a "danger point" because if States can determine their own priorities for funding, low priority may be given to support services for women. These commenters suggested that with respect to programs which may contribute to eliminating sex stereotyping, the regulation should mandate funding.

Response. One of the major purposes of this new Act is the consolidation of numerous programs and activities into a single basic grant. This consolidation allows the State to determine its own priorities for funding. Consequently, there is no legal justification to undo by regulation what Congress specifically directed by statute. Thus, no change is made in the regulation.

§ 104.511(b) *Initial equipment.*

Comment. Many commenters expressed some confusion with respect to the inclusion of "instructional equipment" and the exclusion of "initial equipment" in the definition of vocational education programs in § 104.511(b). Part of the confusion seems to stem from the fact that the definition of "school facilities" in section 195 includes "initial equipment." Some of these commenters requested that the regulation clearly distinguish these terms.

Response. The language contained in § 104.511(b) is based directly on the statutory definition of vocational education in section 195. This definition provides in part that the "term 'vocational education' does not mean the construction, acquisition or initial equipment of buildings." "Initial equipment" includes building fixtures, utilities and furnishings or simply the materials which must be placed in a facility to accommodate the type of instruction or other voca-

tional education purpose for which the facility is designed. Although the definition of "vocational education" does not allow for the purchase of initial equipment, States may use funds under the authority of section 120 (b) (1) (E) (construction of area vocational education school facilities) for initial equipment. It should also be noted that the definition of vocational education allows for the acquisition of instructional equipment. No change is made in the regulation.

§ 104.512(b) (3) *Apprenticeship related instructional programs.*

Comment. A commenter expressed the view that, since apprenticeship-related instructional programs are directly tied to the process of job placement, more than a simple reference to them in § 104.512 should be given. This commenter suggested that a more detailed regulation governing the operation of these programs be adopted.

Response. The comment is accepted. In view of the importance of related instruction to apprentices who are employed to learn trade skills, a new regulation, § 104.515, has been added. The language of this provision is adopted from the regulation promulgated in 1975 by the Commissioner at 40 FR 57760 (December 11, 1975) on this same subject matter. This regulation requires the State to include certain assurances in the five-year plan if apprenticeship-related instructional programs are offered.

These assurances will (1) insure that the vocational training is supplemental to on-the-job training experience of the apprentice; (2) set minimum age standards; (3) require an apprentice training agreement; (4) outline the required characteristics of the skilled trade; (5) specify the classifications of registered and non-registered apprentices; and (6) require conformity with Department of Labor regulations on apprenticeship programs.

§.104.513 *Student organizations.*

Comment. A great many commenters submitted their views both in writing to the Regulations Task Force and at the public meetings on the subject of vocational education student organizations. Although the vast majority of these commenters expressed their satisfaction with the inclusion of a regulation authorizing the expenditure of funds for activities of vocational education youth organizations which are an integral part of the vocational education programs, many commenters objected to certain aspects of the regulation.

Many commenters objected to paragraph (c) which lists six activities which cannot be considered an integral part of vocational instruction. Some believe that it is entirely unnecessary to regulate on nonreimbursable activities because it is generally assumed that if an activity is not explicitly set forth, it cannot be funded.

A number of commenters expressed disapproval with some of the items listed as nonreimbursable in paragraph (c). Some commenters felt strongly that attendance at conventions, student organization newsletters, and recognition of outstanding performance are all vital elements of the student organization instructional and leadership program. Since these activities are designed to prepare youth to become responsible members of society, these items should be moved into reimbursable activities in paragraph (b). Many members of student organizations either testified at the public meetings or wrote letters explaining that the elements in paragraph (c) represented an important educational function and should be supported financially. One individual testified that students value their awards more than anything.

The one item in paragraph (c) which received the most comment was the prohibition against using funds for lodging, feeding, conveying, or furnishing transportation to conventions or other forms of assemblage. Some commenters pointed out that national and State conventions, culminating the experience of conferences held locally and regionally, provide an excellent educational forum for an exchange of ideas and are an integral part of the instruction. Limiting funds for this purpose will have a negative impact on the future of vocational education.

A few commenters objected to the use of the term "assemblage" in paragraph (c) (1). They felt this term would preclude the furnishing of transportation to any activity in which groups of students come together, including field or laboratory work incidental to the vocational training. Others argued that funds should be available for furnishing transportation to skill competitions which are directly related to the instructional program. Some commenters expressed the view that allowing funds to be used for transportation of students for student organization activities may lead to abuse in the use of funds.

A few commenters stated that the regulations may be fostering a discriminatory policy if the lodging and travel of statewide coordinators are reimbursable, but student costs are not. Others generally questioned whether funds may be used to pay the salaries of statewide coordinators.

One commenter suggested that if Federal funds are to be used to support the cost of instructional supplies and materials for student organizations, then a requirement should be imposed to insure that such materials are free of sex stereotyping. Another commenter recommended that States be required to match dollar for dollar Federal funds used for student organizations.

Many commenters recommended that the regulations be amended to insure explicitly that any activity of an organization funded with Federal dollars be available to all students in the instructional program without regard to membership in the student organization. In this connection, Congressmen Perkins and Quie in the House Committee on Education and Labor stated in a letter to the Commissioner, "We do not believe that any activity can be supported with Federal funds unless all of the students in the instructional program are eligible to participate without regard to membership in any student organization. Otherwise, we feel that the Federal government would be in the untenable position of excluding students from the benefits of a Federally-funded program solely because they do not choose to join a private organization."

A few commenters strongly objected to the use of Federal funds to support any activity of a student organization. They stated that there is no authority in the law or legislative history to support the regulation. In their view, Congress considered and rejected proposals which would have expressly permitted support for such activities.

Still others who expressed strong support for student organizations urged that the Office of Education not control by regulation that which was not deemed necessary to impose by legislation. They argue that the intent of Congress was to leave student organizations out of the law because, "The student organizations are doing fine. It may be doing them a disservice to put them in the Federal law, thus making them part of the system, subject to its structure. Any legislative support is best left to the individual States."

Response. The Office of Education recognizes the educational programs and philosophies embraced by vocational education student organizations as being an integral part of the vocational education system of training. The efforts of these student organizations to improve the quality and relevance of instruction, to develop student leadership and to enhance citizenship responsibilities have equipped and will continue to equip vocational education students with the tools necessary to enter the labor market and to assume successful roles in society. To this end, § 104.513 of the regulations allows that Federal, State, and local funds available under the five-year State plan (subject to the overall matching requirements) may be used to give support to the activities of vocational education student organizations which are directly related to the vocational education instructional programs under the approved five-year State plan. It should be made clear at the outset that, since the activities of student organizations are not explicitly authorized in the Act, the activities can only benefit from the vocational education program to the degree to which the activity is directly integrated into the regular instructional program.

It has been apparent to the Office of Education that this national policy on student organizations has been interpreted differently by the States. Some States have construed the policy in earlier regulations broadly to reimburse all student organization activities. Other States have adopted a very limited view of specific activities which are reimbursable. As a result of this demonstrated ambiguity, the Commissioner has decided to provide the States with uniform guidance on reimbursable activities of student organizations. This guidance was set forth in proposed form in § 104.513 of the Notice of Proposed Rulemaking.

The language of the final regulation closely resembles the proposed regulation with minor amendments to reflect some of the more compelling comments submitted. In the first place, paragraph (b) continues to list supportable activities, and paragraph (c) lists non-supportable activities. These paragraphs are not intended to be exhaustive lists, but merely a framework the State should use in distinguishing between reimbursable and non-reimbursable activities. Despite the comments to the contrary, the Commissioner believes it is essential to list non-reimbursable activities in order to avoid misinterpretation.

The specific items listed in paragraph (b) are extrapolated in large part from the statutory definition of vocational education. (All of the student organizations, of course, are subject to the Title IX provisions on sex discrimination and the section 107(b) (4) (A) requirement to eliminate sex stereotyping. Instructional materials used by the student organizations are subject to the same requirements, which are not repeated in the regulation.) Support is not limited, however, to training, field work, and acquisition of instructional supplies. Instruction oriented activities such as special demonstration projects, lectures and exhibits initiated by vocational education personnel may also be supported. Salaries of State-wide coordinators responsible for the aforementioned activities are also reimbursable as an administrative cost. Vocational counseling in connection with vocational training for the purpose of facilitating occupational choices may be supported with funds available under section 130, not section 120.

The text of paragraph (b) has been amended under subparagraph (2). The final clause "cost of travel thereto" has been deleted because, as some commenters indicated, the generally-accepted prohibition against use of Federal funds for transportation to conventions could too easily be cir-

cumvented by permitting use of Federal funds for any type of travel of students. This does not mean that funds cannot be used for travel which is part of the instructional program. Funds may be expended on an activity such as travel of class members when such travel is necessary to carry out an otherwise allowable activity such as field work.

Although paragraph (c) lists six items which cannot be funded due to their non-instructional nature, the language in (c)(1) received the most criticism. This subparagraph provides that "an integral part of vocational instruction" does not include lodging, feeding, conveying, or furnishing transportation to conventions or other forms of assemblage. This language, which is taken directly from 31 U.S.C. 551, controls the expenditure of Federal funds and all State and local funds set forth under the plan. The word "assemblage" in this subparagraph, however, was not intended to include field work and laboratory work, but rather social, athletic, or recreational events. Accordingly, the word "social" has been inserted before the word "assemblage."

Finally, paragraph (a) lists the general conditions for funding vocational education student organizations described in the approved five-year State plan. In addition to the activity being an integral part of the instruction and supervised by vocational education personnel, another condition is made explicit in light of the comments received. The activity must be available to all students in the instructional program without regard to membership in any student organization. Students cannot be excluded from the benefits of a program receiving Federal funds because they do not choose to join the student organization.

§ 104.514 *Vocational instruction under contract.*

Comment. Many commenters expressed confusion with respect to the scope of § 104.514. Some questioned whether private vocational training institutions include both private-for-profit and private nonprofit institutions. Others requested clarification on any special requirements pertaining to arrangements with private post-secondary vocational training institutions.

Response. Part of the confusion on the issue of private vocational training institutions was due to the omission of the contracting authority for private vocational training institutions in the Act. The Technical Amendments, however, restore this contracting authority. Accordingly, the regulation has been amended to reflect this revision to the Act. A new paragraph (c) has been added to § 104.514 permitting the State or LEA to make arrangements with private vocational training institutions provided that the institution (1) can make a significant contribution to attaining the objectives of the plan and can provide substantially equivalent training at a lesser cost, or (2) can provide equipment or services not available in public institutions.

In addition, paragraph (a) of § 104.514 has been amended to clarify the fact that contracts with private vocational training institutions include both for profit and nonprofit institutions.

§ 104.514 *Discrimination in private education institutions.*

Comment. A commenter suggested that no Federal funds should be shared with private educational institutions without an active effort to make certain that they do not discriminate.

Response. Title VI of the Civil Rights Act, which prohibits discrimination on the basis of race, Title IX of the Education Amendments of 1972, which prohibits sex discrimination, and section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of the handicapped, are applicable to all institutions receiving Federal funds, whether public or private. The State educational agency has the responsibility for assuring that these civil rights provisions are being carried out. Since these non-discriminatory provisions are already binding on private educational institutions, no change is made in the regulation.

§ 104.521 *Work study—discrimination.*

Comment. Several commenters pointed out that some of the most overt discrimination against students takes place in the employment they obtain through their schools. School officials often acquiesce to requests from employers which discriminate on the basis of sex in placement, responsibility, salary, and advancement, and the practice has continued unabated since the implementation of Title IX. These commenters also believe that it would be contrary to the purpose of the Act to prohibit sex discrimination in vocational training but to permit it to occur in employment. They suggest that the regulation should require that no student be recommended for, placed in, or receive benefits under a job which discriminates on the basis of sex and race. Employers seeking to employ students under work study programs or cooperative vocational education programs should be required to sign assurances that they will not discriminate on the basis of sex or race in hiring, placing, or paying students.

Under all employment programs, school officials should be required to reject sex-specific employment requests and to make an affirmative effort to inform employers that the school is prohibited by law from maintaining cooperative arrangements with any employer which discriminates. Furthermore, these commenters contend that officials should bear some responsibility for monitoring employers' compliance. This could be accomplished by maintaining a simple data file indicating the company by which each student is employed; the race and sex of the student and the level in the vocational education program which she or he had completed when employed; a summary of the student's previous work experience, and a job description and the starting salary at which the student was employed. Where a school finds indications of discrimination in the employment of its students, it should be required to conduct a full investigation and withdraw the cooperation of its job referral offices if businesses are engaging in discriminatory hiring practices which they refuse to make an affirmative effort to correct.

Response. The Commissioner concurs with the concern expressed in this comment that overt discrimination against students frequently occurs in the employment the students obtain through their schools. Such discrimination practices are in direct violation of Title IX of the Education Amendments of 1972 which prohibits sex discrimination under any education program or activity receiving Federal financial assistance. This requirement, which is referenced in 45 CFR 100b.262 of GEPR, is binding on the work study program, apprenticeship program, and the cooperative education program where the issue of sex discrimination in student employment is most significant. Since the prohibition against sex discrimination is already in the GEPR, it is unnecessary to repeat the provision in the separate program regulations.

A change has been made, however, in § 104.75(e) of the regulation. Since the functions of the full-time personnel include the review of all vocational education programs in the State for sex bias, an explicit reference is now made to the review of work study programs, apprenticeship programs, and cooperative vocational education programs and the placement of students who have successfully completed vocational education programs.

Although these regulations do not require LEAs to maintain the type of data file on each student participating in work study or cooperative programs as suggested by these commenters, the full-time personnel designated to eliminate sex discrimination may want to consider seriously the adoption of this recommendation.

§ 104.521 *Work study—disadvantaged participation.*

Comment. Many commenters questioned whether work study funds would be a legitimate expenditure under the minimum percentage for the disadvantaged in section 110 (b) of the Act.

Response. In light of the enactment of the Technical Amendments, States may compute work study funds expended for the disadvantaged as a legitimate expenditure for the minimum percentage for the disadvantaged. Section 110(b) now allows for the cost of programs, services and activities under subpart 2 to be applied against the 20 percent set-aside. Since work study is a permissible activity under subpart 2, the funding of work study for the disadvantaged is an allowable cost under section 110(b). A change has been made to § 104.303 to clarify this matter.

§ 104.522(b) *Work study—ranking of applications.*

Comment. A commenter questioned whether the State must fund work study programs for all LEAs or only for some of them.

Response. Under the consolidation imposed by the Act, the State retains the discretion of determining which programs under section 120 will be funded. If work study programs are funded, then the State must give funding preference to applications submitted by LEAs serving communities having substantial numbers of youths who have dropped out of school or who are unemployed in accordance with § 104.522(b). No change is made in the regulation.

§ 104.523(a) *Work study administrative costs.*

Comment. Many commenters suggested that the last sentence of § 104.523(a) requiring work study administrative costs to be supported with non-Federal funds be deleted. Some of these commenters suggested that the following sentence be substituted: "Funds shall be expended solely for payment or compensation to students employed in work study programs."

Response. In view of the fact that the Technical Amendments now authorize the use of Federal funds for local administrative costs, the provision in § 104.523(a) prohibiting such use has been deleted. Nevertheless, section 121(b)(1), of the Act requires that Federal funds for work study be expended solely for the payment of students employed pursuant to work-study programs. As long as all Federal funds distributed under the specific work-study application are earmarked for payment to students, LEAs may use other Federal funds for local administrative costs pursuant to the methods described in § 104.307.

§ 104.523 *Work study eligibility.*

Comment. A commenter asked whether work study programs could be administered by local educational agencies only. This com-

menter stated that it should be permissible for the State board to administer the program if the State board directly operates the school.

Response. Section 121(a) of the Act limits the administration of work study programs to local educational agencies. Section 104.523 of the regulation also limits the eligibility to LEAs. In order for the State board or other eligible recipients to administer work study programs, legislative relief would be necessary. Accordingly, no change is made in the regulation.

§ 104.523(c) *Work study—20-hour limit.*

Comment. A commenter asked whether the 20-hour limit per week in the work study program conforms to Department of Labor standards. Another commenter stated that the 20-hour limit for a student 18–21 years of age may not provide enough earnings to meet the student's needs.

Response. Since section 121(a)(3) requires the Commissioner to determine a reasonable number of hours per week that a student may be employed under a work study program, it is unnecessary to conform the 20-hour limit in § 104.523(c) to Department of Labor standards. With respect to the issue of the 20-hour limit in employment being too low, it is the Commissioner's position that an amount in excess of 20 hours per week would be potentially detrimental to the student's academic efforts. Furthermore, a ceiling of 20 hours should permit the limited resources available for work study to be shared among more students. Accordingly, no change is made in the regulation.

§ 104.531 *Cooperative programs—100 percent funding.*

Comment. Many commenters questioned whether all cooperative vocational education programs may receive 100 percent Federal funding or just those cooperative programs serving students in nonprofit private schools. Some of these commenters indicated that only the cooperative vocational education program described in section 122 of the Act should include nonprofit private school students.

Response. The Vocational Education Act does not provide authority for two types of cooperative vocational education programs. Any basic grant funds used by a State for cooperative vocational education programs must meet all the statutory requirements of section 122 of the Act and §§ 104.531 through 104.533 of this regulation. States may not legally circumvent these requirements by labeling "cooperative vocational education programs" as "vocational education programs" and funding the activity under section 120(b)(1)(A).

With respect to the issue of funding, the State may fund, with up to 100 percent Federal monies, those cooperative vocational education programs being carried out by LEAs which include the participation of students from nonprofit private schools. This does not mean that the program must be designed exclusively for students in nonprofit private schools; but rather, if the program includes such students, it may be funded up to 100 percent. In order to clarify this matter in the regulation, § 104.305(a)(1) is amended to read, "Cooperative vocational education programs which include students enrolled in nonprofit private schools * * *."

§ 104.531(b) *Cooperative education priorities.*

Comment. A few commenters perceived some difficulty in LEAs utilizing the funding priority in § 104.531(b) (areas that have high rates of school dropouts or youth unemployment) because of the consolidation of cooperative vocational education programs under the grant. The issue raised is whether the LEA, having received a grant from the State, must give priority in funding cooperative education programs to areas that have high rates of school dropouts or youth unemployment.

Response. Even though the cooperative vocational education program has been consolidated under the basic grant, section 122(c) requires the State to give priority to funding cooperative programs to areas that have high rates of school dropouts or youth unemployment. The State must give priority to the applications of local educational agencies on the basis of the statutory criteria. The determination of the amount of funds earmarked for cooperative programs, however, is entirely within the domain of the State. If the State decides to fund cooperative programs, based on the local applications, then any Federal funds encumbered for cooperative programs must be expended by the LEA in accordance with the local application it submitted. In order to clarify the fact that the funding determination for cooperative programs is based on the local application, the language in § 104.531(b) has been amended.

§ 104.532 *Cooperative assurances.*

Comment. A commenter suggested that the list of assurances in § 104.532 be deleted because the Act does not require these assurances to be contained in the five-year State plan.

Response. Section 122 of the Act requires that cooperative vocational education programs conducted by LEAs include a variety of assurances enumerated in paragraphs (a) through (h). In order to ensure that the State adheres to these provisions when funding proposed cooperative programs described in the local application, the Commissioner believes it is imperative that the assurances be included in the approved five-year State plan. No change is made in the regulation.

§ 104.532 *Cooperative programs—reimbursement of added costs.*

Comment. Many commenters questioned the meaning of the provision in § 104.532(c) for reimbursement of added costs to employers for on-the-job training of students. Some of these commenters cautioned against reimbursing employers for students' mistakes on the job.

Response. This provision relating to the reimbursement of employers for the added costs has been a part of the cooperative program since 1968. The provision entitles the employer to receive the necessary reimbursement in the event the employer is faced with additional costs to his or her business because of such factors as the participating of many students or the participation of disadvantaged or handicapped students. For example, if a number of students are placed in a business establishment and the employer assigns employees to supervise those students while they are on the job then the employer may be entitled to be reimbursed for the added cost of the time the employees supervise those students. No change is made in the regulation.

§ 104.532 *Cooperative programs—private non-profit schools.*

Comment. One commenter pointed out that the proposed regulation governing the participation of students in nonprofit private schools in cooperative vocational educational programs is taken almost verbatim from the corresponding statutory language. This commenter stated that the regulation ignores the specific concerns expressed by the House Committee on Education and Labor in H.R. 94–1085 at page 46. In this passage the Committee urged the Office of Education to take more vigorous steps to implement the statutory provisions for the funding of programs involving students enrolled in nonprofit private schools. Without further elaboration in the regulation to reflect these concerns, this commenter believes that there will not be adequate safeguards to assure that eligible students enrolled in nonprofit private schools will participate in the programs on an equitable basis.

Response. The comment is accepted. A new regulation, § 104.533, is added to the section on cooperative vocational education programs to reflect the language contained in the House Report. In accordance with this regulation, the State must consult with the appropriate nonprofit private school officials at the State and local levels in order to make provision for the participation of students enrolled in nonprofit private schools. In addition, LEAs receiving funds for cooperative programs shall identify the eligible students, assess their needs, and provide them with the type of programs and services which will most effectively meet their needs. The personnel, materials and equipment necessary to provide these cooperative vocational education programs and services shall remain under the administration, direction and control of the LEA.

§ 104.532 *Cooperative programs—on-the-job training.*

Comment. Commenters expressed strong disapproval of the omission in § 104.532 of two important on-the-job training requirements which were included in the regulations (§102.98) implementing the 1968 legislation. These requirements would insure that the cooperative program provide on-the-job training that:

1. "Employs and compensates student-learners in conformity with Federal, State, and local laws and regulations and in a manner not resulting in exploitation of the student-learner for private gain"; and

2. "Is conducted in accordance with written training agreements between local educational agencies and employers". According to these commenters, the cooperative vocational programs may be converted into a job-placement type of program with less emphasis on high quality, bona fide cooperative programs. Without the structure of the training agreement, LEAs may increase the pupil-teacher ratio, increase the class size, and add responsibilities for the teacher-coordinator. Non-compensation of the student-learner may have an adverse effect on liability in case of injury to the student, and there would be no employer-employee relationship under State workmen's compensation laws.

Response. The comments are accepted and the regulation is amended to reflect the requirement for compensation and written training agreements. These requirements were inadvertently omitted from the NPRM. The Commissioner agrees with the point of view expressed by these commenters that the omission of these two requirements may have a detrimental effect on the overall quality of the cooperative vocational education program. It should be noted, however, that whereas the former regulation required the written training agreements to be submitted to the State for filing with the local application, this submission is not required by this regulation. The State shall only provide an assurance of these two requirements along with the other assurances set forth in § 104.532.

§ 104.541 *Energy education—secondary level.*

Comment. Several commenters objected to the language in § 104.541 which provides

that funds may be used for grants to postsecondary institutions for energy education. These commenters raised serious questions as to the exclusion of energy education programs from secondary schools. Some of these commenters stated that students who have no opportunity for postsecondary training deserve, nevertheless, as much chance as possible to get good training. Other commenters pointed out that their States already have successful energy education projects at the secondary level.

Response. The language of the regulation is based directly on section 123 of the Act which provides for grants to postsecondary institutions. Neither this statutory provision nor § 104.511 of the regulation has been viewed as limiting the funding of those energy education programs which may be characterized as vocational education programs exclusively to postsecondary institutions. In the event an LEA has incorporated an energy education program into its regular vocational education curriculum at the secondary level, the LEA may use funds it receives under its local application to support this program. It is imperative, however, that the energy education program at the secondary level be considered a vocaional education program under section 120(b)(1)(A) and not under section 120(b)(1)(D) of the Act.

§ 104.543 *Solar energy.*

Comment. A few commenters objected to the fact that the regulation provides for the support of programs for solar energy but makes no mention of other energy areas such as oil shale. Other commenters stated that training limited only to installation of solar energy equipment is too narrow.

Response. Although the regulation follows the Act very closely in this new and emerging area, it was not intended to exclude vocational training in other energy areas such as oil shale, or hydroelectric power. Neither was it intended to exclude training in the operation and maintenance of solar and other energy producing equipment. As long as the training program may be characterized as vocational education under section 120(b)(1)(A), Federal funds may be used to support the program. No change is made in the regulation.

§ 104.552 *Location of vocational facilities.*

Comment. One commenter stated that many area vocational schools constructed with Federal funds serve racially identifiable populations and areas, often to the detriment of central city school districts which serve predominantly non-white student populations. This commenter recommended that the regulation be amended to require the State board to act affirmatively to ensure equal educational opportunities for all students.

Response. Since the construction of area vocational schools is an authorized activity under section 120 of the Act, the sites of the schools are chosen at the discretion of the State and LEA. However, the nondiscrimination provisions in 45 CFR Part 80, which effectuate Title VI of the Civil Rights Act of 1964 are binding on the State. Section 45 CFR 80.3(b)(3) provides that in determining the site or location of a facility, a recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color or national origin. Furthermore, if the State makes Federal funds available to an eligible recipient for construction of a vocational facility, the funds must be distributed on the basis of the funding formula described in Section 106(a)(5) of the Act. Under this formula, priority must be given to eligible recipients located in economically depressed areas and areas with high rates of unemployment. Accordingly, Federal funds used for construction must be distributed to communities in economically depressed areas such as central city school districts.

With respect to the issue of equal educational opportunities for all students and admission policies, Title VI of the Civil Rights Act and Title IX of the Education Amendments of 1972 prohibit discrimination on the basis of race and sex. Since these provisions are binding on all institutions receiving Federal assistance, vocational facilities constructed with Federal monies may not adopt discriminatory admission policies. Thus, no change is made in the regulation.

§ 104.571 *Provision for stipends.*

Comment. Many commenters suggested that since Federal vocational education resources are so limited, the use of funds to pay stipends to students is highly questionable. These commenters believe that the available dollars should be spent to upgrade and maintain existing programs and provide for expansion.

Response. Although section 120 of the Act allows for the provisions of stipends, the decision to permit funds to be earmarked for stipends lies within the discretion of the individual States. Since the Act provides the State with this option, no change is made in the regulation.

§ 104.581. *Placement services.*

Comment. A commenter suggested that the language of § 104.581 be revised to include guidance and counseling explicitly under the section of the basic grant which permits funding of placement services for students who have successfully completed vocational education programs.

Response. Section 120(b)(1)(H) of the Act permits the expenditure of subpart 2 funds for placement services if there is inadequate funding in other programs providing similar activities, or other services are inadequate to meet the needs of the State. Although placement services are an integral part of guidance and counseling, the Act does not allow section 120 funds to be used for all activities under the general heading of guidance and counseling. Since the regulation conforms to these statutory limitations, no change is made in the regulation.

§ 104.581 *Placement services for completers.*

Comment. A few commenters were critical of the language in § 104.581 which provides placement services for students who have successfully completed the vocational education program. These commenters have urged that the placement services be made to all students who have enrolled in a vocational edcation program regardless of whether the program is completed or not completed.

Respone. The language in § 104.581 is based directly on section 120(b)(1)(H) of the Act which limits the eligibility of this activity to "students who have successfully completed vocational education programs." To expand the eligibility would contravene both the Act and the legislative history. Thus, no change is madeinthe
change is made in the regulation.

§ 104.591 *Industrial arts—mandatory funding.*

Comment. A few commenters asked whether a State could legally refuse to make Federal funds available for industrial arts programs.

Response. Although industrial arts is an authorized activity under section 120 of the Act, the matter of funding such programs lies within the discretion of the State. There is no requirement in the Act that each specific program enumerated in section 120 be funded. No change is made in the regulation.

§ 104.591 *Industrial arts for the disadvantaged and handicapped.*

Comment. A commenter asked whether prevocational and exploratory programs of industrial arts programs designed for the handicapped and disadvantaged may be charged against the section 110 minimum percentages.

Response. Prevocational and exploratory programs in industrial arts are permissible expenditures under section 120 of the Act. Since expenditures for all programs, services and activities under section 120 may be applied against the minimum percentage requirements for the handicapped and disadvantaged in section 110, the cost of prevocational and exploratory programs in industrial arts may be charged against the section 110 minimum percentages. No change is made in the regulation.

§ 104.592 *Industrial arts—sex stereotyping.*

Comment. Many commenters stated that industrial arts programs traditionally have discriminated against women by denying them entry into male-intensive fields. According to these commenters, female students encountering discrimination at the introductory vocational level are less likely to develop an interest later in nontraditional vocational courses and are handicapped when they try to enter vocational programs which require prerequisite skills and courses acquired in industrial arts programs. These commenters have recommended that, since participation in industrial arts programs can provide a crucial opportunity for introduction of women to the higher paying industrial and technical occupations, the regulation should require that industrial arts programs contribute to the reduction of sex stereotyping in the overall vocational education programs.

Response. The comment is accepted. Section 120(b)(1)(I) provides for the support of industrial arts programs which will assist in meeting the purposes of the Act. One of the primary purposes set forth in the declaration of purpose, section 101, is the development of programs to overcome sex stereotyping; therefore, the references to the purpose of the Act of overcoming sex stereotyping should be made explicit in the regulation. Accordingly, § 104.592 has been amended to reflect this concern.

§ 104.601 *Support services for women.*

Comment. Many commenters expressed concern with this section of the regulation because it only singles out problems related to women. Some of these commenters believe that, inasmuch as the Federal law is designed to eliminate sex bias, this regulation violates Title IX which provides that no program can discriminate against either sex. Others recommended that the regulation provide support services for men who enter programs designed to prepare persons for employment in jobs which have traditionally been limited to women.

Response. One of the major conclusions reached by Congress during its two years of hearings on the Vocational Education Act is that the inferior position which women now hold in the labor market is reinforced by the type of training programs available to and selected by them. Consequently, the legislation was drafted in a way to attempt to solve this problem. One of the key provisions on this matter incorporated into the Act was the section 120(b)(1)(J) program of support services for women. Section 104.601 of the regulations is based on this statutory provision. It should be noted, how-

ever, that support services for men (e.g. counseling, placement) are reimbursable under other sections of the Act. Thus, no change is made in the regulation.

§ 104.602(a) *Support services for women—counseling.*

Comment. A commenter suggested the language in § 104.602(a) be amended to include counseling on the ways to overcome the difficulties encountered in enrolling in non-traditional programs.

Response. The comment is accepted. Mere counseling on the problems involved in enrolling in non-traditional programs is inadequate if these problems are to be solved. Therefore, § 104.602(a) has been rewritten to provide for counseling on the ways of overcoming the difficulties which may be encountered by women in these programs.

§ 104.602(b) *Support services for women—job development.*

Comment. A commenter questioned whether this type of service was limited only to women who are already enrolled in non-traditional programs.

Response. Since the wording of this regulation may give the impression that the service is available only to women directly enrolled in non-traditional programs, the regulation has been clarified so that the service will be available also to women entering the programs or interested in the programs. This revision is necessary because part of the problem women encounter is overcoming previous socialization and barriers to entry in these programs.

§ 104.612(b) *Standards for day care services.*

Comment. Many commenters objected to the requirement in § 104.612(b) that day care services be governed by applicable standards of State law. Some of these commenters pointed out that certain States presently have no such standards. Some requested that all State standards be certified, and others requested clarification and guidance on the expenditure of these funds.

Response. In order to develop a degree of uniformity in the expenditure of funds for day care services, the standards set forth in the Federal Interagency Day Care Regulations, 45 CFR Part 71, will govern the provision of day care services. Accordingly, the reference in § 104.612(b) to the standards imposed by State law has been deleted.

§ 104.621(a) *Meaning of dissolution of marriage.*

Comment. A commenter asked whether the special programs for persons who had been homemakers but who now, because of dissolution of marriage, must seek employment apply only to divorced individuals.

Response. The term "dissolution of marriage" is not to be interpreted only in the strict sense of divorce. Vocational training is available to the homemaker who has experienced a separation, annulment or any other type of dissolution of marriage. No change is made in the regulation.

§ 104.622(a) *Instructional supplies.*

Comment. A commenter suggested that the language in § 104.622(a) "repair of instructional supplies" be changed to "repair of instructional equipment" because supplies are not normally repaired.

Response. The comment is accepted. The Commissioner agrees that since supplies are not normally repaired, the substitution of the term equipment would be appropriate.

§ 104.633 *Residential schools—discrimination.*

Comment. A commenter requested that the standards of Title VI of the 1964 Civil Rights Act be substituted for the present language which provides that funds may not be used for schools in which students are segregated because of race. Another commenter suggested that a new paragraph (c) be added to prohibit the use of funds for schools where there are different standards for admission based on sex.

Response. With respect to the matter of race, the regulation repeats the statutory provision that no funds may be used for residential vocational schools in which students are segregated because of race. Title VI provisions, however, are also applicable to the entire program and are referenced in 45 CFR 100b.262 of the General Education Provisions Regulations (GEPR). Also applicable are regulations in 45 CFR Part 84 which effectuate section 504 of the Rehabilitation Act of 1973. In addition, Title IX, also referenced in GEPR, prohibits the adoption of different standards for admission based on sex. Therefore, no change is made in the regulation.

SUBPART 3—PROGRAM IMPROVEMENT AND SUPPORTIVE SERVICES

§ 104.701 *Authorization for program improvement and supportive services.*

Comment. A commenter stated that § 104.701 should read that a State shall use "up to 20 percent" for program improvement and supportive services, and that a State is not required to use the full 20 percent for these activities.

Response. The Act specifically states "20 percent" and not "up to 20 percent." This is not a matter of discretion. The State must expend 20 percent of its funds for activities under Subpart 3. Funds not obligated for Subpart 3 may be carried over under the Tydings Amendment (section 412(b) of GEPA) for one year and, if not obligated during that year, would revert to the government. No change is made in the regulation.

§ 104.703 *Research coordinating unit (RCU).*

Comment. Many commenters stated that the Act permits a State to establish a research coordinating unit, and that it is not mandatory for the State to do so. Commenters recomended that the regulation be clarified.

Response. The Act states that a State "may" (not "shall") use the funds for the establishment of a research coordinating unit. However, if a State is to use any funds for research, exemplary and innovative programs, or curriculum development, it must establish a research coordinating unit in order to do so is correct as written. No change is made in the regulation.

Comment. A commenter stated that the Act stipulates that the research coordinating unit is to contract for research, exemplary and innovative programs, and curriculum development, and that the research coordinating unit may perform directly the research activities, but not the exemplary and innovative programs nor the curriculum development activities.

Response. The Technical Amendments and the legislative history of the Technical Amendments (Senate Report No. 95-142) make it clear that the RCU may perform all functions, research, exemplary and innovative programs, or curriculum development functions itself or may contract for the functions. Section 104.705, 104.706, and 104.708 are amended accordingly.

Comment. Two commenters recommended that the term "unit to coordinate research" be substituted for "research coordinating unit."

Response. The Act consistently uses the term "research coordinating unit." However, a State could call its research coordination unit by another title if it so desired. No change is made in the regulation.

Comment. A commenter suggested that the research coordinating unit be responsible for the vocational education personnel training activities as well as the research, exemplary and innovative programs, and curriculum development.

Response. There is no legal basis in the Act for requiring the RCU to be responsible for vocational education personnel training. A State may, if it chooses, charge the RCU with responsibility for coordination of vocational education personnel training. No change is made in the regulation.

Comment. Several commenters stated that the program improvement funds are a part of the State grant and must be governed by the State plan, and it is the responsibility of the State board, not the research coordinating unit, to develop the State plan. Commenters recommended that the regulation clarify the roles of the State board and the RCU.

Response. The RCU is not responsible for the development of the State plan or the comprehensive plan of program improvement. The development of these documents is the responsibility of the State board. Section 104.703(c) is amended to clarify the role of the RCU.

Comment. Several commenters were concerned that the regulation did not adequately control possible duplication of efforts in the State, and that abstracts of planned projects should be submitted to the National Center for Research in Vocational Education and the U.S. Office of Education.

Response. Section § 104.703(e)(1) requires that two copies of *approved* projects be submitted to the National Center and to the Commissioner. It would be an undue burden on the States to have to submit abstracts of *planned* projects. No change is made in the regulation.

§ 104.704 *Contract requirements.*

Comment. A commenter recommended that "demonstrate a reasonable probability" be defined.

Response. The Act does not define the expression "demonstrate a reasonable probability." The burden is on the applicant to set forth a reasoned probability that the project will result in usable improved teaching techniques or curriculum materials. Since the expression is not defined in the regulation, the State must make the determination of "reasonable probability." No change is made in the regulation.

Comment. Two commenters recommended that the words "instructional programs" be substituted for "teaching techniques or curriculum materials."

Response. "Teaching techniques or curriculum materials" is taken directly from the Act. Substituting "instructional programs" would apparently change the intent of the Act. Thus, no change is made in the regulation.

§ 104.705 *Research programs.*

Comment. One commenter recommended that States should be permitted to use results of projects that were not supported with vocational research funds.

Response. The recommendation is accepted. It is clear that the intent of the legislation is not to restrict the dissemination activities to the results of projects that were supported with vocational education funds. Section 104.705(5) is changed to implement this recommendation.

Comment. A commenter recommended that the following be added to § 104.705(2) "and programs and projects for occupational and vocational guidance which utilizes the services of certified guidance counselors. This should include programs where training and retraining of guidance personnel can be effectively evaluated as well as programs

which directly provide guidance counseling and placement services as part of the vocational education effort."

Response. The research activities listed in this regulation are taken directly from the Act. Under this present authority, the State may evaluate the effectiveness of training and retraining of guidance personnel or other personnel. No change is made in the regulation.

§104.706 *Exemplary and Innovative Programs.*

Comment. A commenter recommended that programs designed to facilitate the employment of older people, including people over 65 years of age be included in the list of possible uses of exemplary and innovative funds.

Response. Although older people are not separately identified as persons who would benefit from exemplary and innovative projects, they clearly are included. No change is made in the regulation.

Comment. One commenter recommended that § 104.706 give special consideration to four-year postsecondary institutions as contractors for the funds for exemplary and innovative programs.

Response. Although there is no legal basis in the Act for giving special consideration to four-year postsecondary institutions as contractors, they are not excluded. No change is made in the regulation.

§ 104.708 *Curriculum development.*

Comment. Several commenters questioned why the research coordinating units must do the contracting for the curriculum development effort.

Response. Section 133(a) of the Act, as amended by the Technical Amendments, clearly states that the contracts for curriculum development are to be made by the research coordinating units. No change is made in the regulation.

Comment. A commenter recommended the phrase "sex stereotyping" be added after "sex bias" in § 104.708(c).

Response. The recommendation is accepted. It was an oversight in the proposed regulation to have left out "sex stereotyping."

§ 104.761 *Qualifications of counselors.*

Comment. A commenter recommended that the regulation associated with the administration, supervision, conduct, and design of vocational guidance and counseling programs and services set forth the qualifications of personnel to be supported by available funds. This would include setting minimum professional standards for counselors. Administrators and practitioners should be required to meet the certification standards for practicing counselors.

Response. Since the current law does not set forth specific qualifications for these personnel and the criteria will vary from State to State, the States have discretion to establish their own certification standards. No change is made in the regulation.

§ 104.761 *Needed personnel for guidance and counseling.*

Comment. A commenter indicated that vocational guidance and counseling are vastly needed to improve vocational education programs. However, guidance and counseling personnel cannot be expected to provide all the vocational education services as outlined in the regulation. Other personnel and funds should be available to coordinate services.

Response. It is expected that the Federal funds earmarked by the State to support vocational development and guidance under this section of the Act will supplement the State's ongoing effort to improve the guidance, counseling, placement and follow-up services offered to their students. No change is made in the regulation.

§ 104.763 *Activities eligible for funding.*

Comment. Several commenters recommended a rephrasing of the statement, "funds made available to a State under the vocational guidance and counseling program (Section 134 of the Act) shall be used to support one or more of the following * * *." Various substitute language was suggested by the commenters for the phrase "to support one or more of the following * * *." In most instances, the commenters offered recommendations that, if put into the regulation, would assure the funding of specific activities and in some cases each of the eight activities listed in the Act.

Response. The Technical Amendments make the intent of Congress clear on this issue. The language of the Technical Amendments is "shall include one or more of the following activities * * *." No change is made in the regulation.

§ 107.763 *Organization of vocational guidance activities.*

Comment. A substantial number of commenters expressed the opinion that while they agreed that funds allocated under Section 130(a) shall be used to support one or more of the eight activities listed in section 134 of the Act, they questioned the reorganization of the eight activities into five as proposed in the NPRM. The commenters preferred for reason of interpretation that the eight activities be enumerated in the regulation as they appear in the Act.

Response. The major purpose for reorganizing the eight groups of activities listed in the Act into five, with appropriate subgroups, was to simplify and make clearer the meaning of the Act. Judging from the many comments received from the public on this regulation, the purpose for regrouping was not achieved. Therefore, the recommendation of the commenters is accepted, and § 104.763 is changed to conform to the language of the Act.

§ 104.763 *Eligibility for placement and follow-up services.*

Comment. Several commenters raised questions about the meaning of educational placement and job placement services, and which groups or individuals are eligible to receive funds for this activity under the Act.

Response. The law provides funds for educational and job placement services, including follow-up services, for high school, college, and university students. Educational and job placement services and follow-up is one of the eight vocational guidance and counseling activities included in the Act. The Technical Amendments make it clear that funds shall be used for one or more of these eight activities, and that the one or more activities funded shall be determined by the State. No change is made in the regulation.

§ 104.763 *Placement and follow-up services.*

Comment. A commenter recommended that the regulation specify that placement and follow-up services are concerned with the occupational programs in secondary schools, area vocational schools, community colleges, and baccalaureate or higher degree-granting institutions.

Response. The current language of § 104.763 (3) makes it clear that all the groups identified by the commenter are eligible for placement and follow-up services. No change is made in the regulation.

§ 104.764(a) *Special emphasis.*

Comment. A commenter expressed the opinion that the term "counselor" as used in this regulation could be misinterpreted or puzzling and might pose a problem regarding official counselor qualifications. This commenter recommended the deletion of the phrase "into schools as counselors * * *," and the use of the phrase "into schools as vocational career advisors for students."

Response. The language of the Act is "to bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students." Both the Act and the regulation allow the local schools the flexibility to bring these individuals in as advisors. No change is made in the regulation.

VOCATIONAL EDUCATION PERSONNEL TRAINING

§ 104.774 *Other types of training.*

Comment. A commenter asked whether funds available under section 130 of the Act could be used to provide training for competency-based programs, teacher certification programs, vocational degree programs, and vocational leadership development programs. This commenter recommended a regulation stipulating that locally-oriented evaluation and needs assessment must be the basis for determining the uses to be made of vocational education personnel training funds.

Response. The State, through its five-year State plan and annual program plan, has the option of providing any kind of training that it believes will improve the quality of instruction, supervision, or administration of vocational education. The State may choose to base its determinations on local evaluation and local needs assessments. The recommendation that the State's options in this matter be limited by regulation is not accepted because there is nothing in the Act on which to base such a limitation. No change is made in the regulation.

Comment. One commenter recommended that § 104.774(b) be amended to read "In-service training * * * to overcome sex bias 'and sex stereotyping' in vocational education programs."

Response. The recommendation to add "and sex stereotyping" is accepted, because the Congress, in the Act's declaration of purpose (Section 101.(3)), emphasized equal opportunity in vocational education for persons of both sexes, and because it is not reasonable to suppose that after the Congress included overcoming both sex discrimination and sex stereotyping in the declaration of purpose, it meant to exclude the latter concern in programs of vocational education personnel training.

Comment. One commenter wanted the regulation to include, specifically, training in curriculum development.

Response. The recommendation is not accepted because such training may be included under the non-exhaustive list in § 104.774 at the option of the State. No change is made in the regulation.

§ 104.774 *Handicapped or disadvantaged students.*

Comment. A commenter recommended that the regulation include, as an allowable category, training to improve vocational education for handicapped and disadvantaged persons; another commenter similarly wanted to include, as a category, training to deal with "learning disabilities."

Response. Such training may already be included under the non-exhaustive list in § 104.774 at the option of the State. Nevertheless, because of the emphasis in the Act on these categories, the regulation has been amended to include them specifically.

GRANTS TO OVERCOME SEX BIAS

§ 104.792 *Overcome sex bias "and sex stereotyping."*

Comment. One commenter requested that "sex stereotyping" be added to § 104.792(a).

Response. The recommendation is accepted. Although the title of section 136 in the Act uses only the term "sex bias," the body of that section refers to "sex stereotyping and bias." It appears that "sex stereotyping" was inadvertently omitted from the regulation.

§ 104.793 *Types of projects.*

Comment. Many commenters felt that the activities listed were too limiting and examples should be deleted altogether. Many others, however, felt that the list was not comprehensive enough. Of these commenters, most wanted to add "programs to overcome sex bias" to the list.

Response. The activities listed in § 104.793 are intended to be examples, and the list is not exhaustive. Section 136 of the Act, which authorizes grants to overcome sex bias and sex stereotyping, falls under subpart 3, Program Improvement and Supportive Services; therefore, funds used under this section must go for support or improvement of vocational education programs. Insofar as programs to overcome sex bias fall into this category, they may be supported by funds under this section. No change is made in the regulation.

§ 104.793(e) *"Assisting girls and women" in selecting careers.*

Comment. Several commenters felt that § 104.793(e)(2) should not be restricted to women and girls and that the regulation should read: "Assisting persons in selecting careers." The rationale they gave for requesting the change was that males, too, need assistance in selecting careers according to their interests rather than according to stereotypes. They felt that, in leaving males out, the regulation was "sexist."

Response. The recommendation is accepted to include males as well as females. Paragraph (e) is rewritten to include assistance for all persons in selecting careers since sex stereotyping is not limited to females.

SUBPART 4—SPECIAL PROGRAMS FOR THE DISADVANTAGED

§ 104.801 *Girls and women as disadvantaged.*

Comment. A commenter has recommended that "because girls and women traditionally have been channeled into educational tracks which have not enabled them to acquire the prerequisites to pursue training for a wide range of occupations," "girls and women" should be added as a group who require special services in order for them to succeed in vocational education programs. The same commenter recommended an additional criterion, "those who lack prerequisites as a result of previous discrimination."

Response. Since the criteria for identifying those who are academically disadvantaged already include the lack of reading, writing, or mathematical skills, and failure to perform at the necessary grade level, adding a specific category for "girls and women" as disadvantaged (even those who have the necessary skills and perform at the necessary grade level) would seem unnecessary. Therefore, this recommendation is not accepted. No change is made in the regulation.

§ 104.802(a) *Youth unemployment and school dropouts.*

Comment. A commenter suggested that although the phrase used in section 140(b)(1) of the Act is "youth unemployment and school dropouts", the word "or" should be used in the regulation as both criteria need not be met.

Response. The recommendation is accepted. In order to provide a degree of consistency in the regulations for funding those programs which require prioritizing of local applications on the basis of youth unemployment or school dropouts (the work study program, the cooperative vocational education program, and special programs for the disadvantaged), the word "and" in § 104.531(b) and § 104.802(a) has been changed to "or." Funds may be used in areas of either high concentration of youth unemployment or high concentration of school dropouts.

§ 104.804 *Academic disadvantage.*

Comment. A commenter pointed out that, since academic handicaps are of such a variety, detection of academic handicaps, and symptoms of underachievement could be made earlier by a school counselor than by an instructor. The commenter recommended that qualified counseling be provided at the elementary school level and through the implementation of programs for the disadvantaged.

Response. The regulation for subpart 4, "Special Programs for the Disadvantaged," does not state who shall apply the criteria of "disadvantaged" to a particular individual. By not prescribing who must apply the criteria, the State or the LEA has the full range of options. The student, the student's parents, the student's teacher, and the school's guidance counselor may all be involved in the decision. Individual guidance and counseling for the academically and economically disadvantaged is very important. Elsewhere in the Act (section 130) and in the regulations (§§ 104.761–764) the importance of guidance and counseling activities is stressed; however, the regulation does not require the advice of a guidance counselor in every situation. No change is made in the regulation.

§ 104.804(b)(3) *Performance below grade level.*

Comment. Another commenter recommended deletion of "performance below grade level" in the definition of "academic disadvantage," considering the criteria of (b)(1) or (b)(2) adequate.

Response. Since the three criteria of paragraph (b) of § 104.804 (that is the criteria in (b) (1), (2) and (3)) are alternatives, criteria (3) need not be applied by those who do not believe performance below grade level to be a valid criterion. These criteria must, of course, be applied in relation to paragraph (d) (1) and (2) in reaching a decision whether special services are necessary. Likewise, the four alternative criteria of paragraph (c) of § 104.804 must be applied in relation to paragraph (b) (1) and (2). No change is made in the regulation.

SUBPART 5—CONSUMER AND HOMEMAKING EDUCATION

§ 104.903 *Occupation of consumer and homemaking.*

Comment. Many commenters recommended that the regulation use the term "occupation" (singular) of consumer and homemaker even though the Act uses "occupations" (plural).

Response. The recommendation is accepted. The phrase "occupation of consumer and homemaking" has been substituted. Although the regulation follows very closely after the Act, since the persons most closely associated with administration of, or instruction in, consumer and homemaking education feel strongly that the occupation of consumer and homemaking should be referred to in the singular, the regulation is amended accordingly.

§ 104.903(a) *Consumer and homemaking education at the elementary level.*

Comment. A commenter questioned the inclusion of "elementary" after the phrase "at all educational levels" because elsewhere vocational education is only for secondary, postsecondary, and adult levels.

Response. The House Report (No. 94–1085, page 50) expressly states that the program of consumer and homemaking education was expanded to include the elementary level. Therefore, no change is made in the regulation.

§ 104.904 *Preference to LEAs for creative approaches in eliminating sex stereotyping in consumer and homemaking programs.*

Comment. A commenter stated: "The regulations should require that State Plans include criteria for selection of applicants based on the degree to which the applicant places emphasis on the preparation of males and females for combining the roles of homemaker and wage earner. Local education agencies should receive preference for funding if they develop or utilize creative approaches for achieving this objective."

Response: This recommendation goes beyond the terms of the Act. While section 150(b)(1)(B) of the Act requires the State plan "to encourage elimination of sex stereotyping in consumer and homemaking programs by promoting the development of curriculum materials * * *" and to "prepare males and females who have entered or are preparing to enter the work of the home," the Act does not provide for preference in funding LEAs which show a creative approach in eliminating sex stereotyping. The Commissioner urges the States to encourage all LEAs to assure participation of both males and females in consumer and homemaking programs. The Act does not support criteria for competition among LEAs with preference in funding on this basis for some and the non-funding of others. Exemplary projects in consumer and homemaking education may, however, be funded by the State under § 104.706 or by the Commissioner under § 105.104(a)(2). No change is made in the regulation.

§ 104.904 *Scheduling for consumer and homemaking courses.*

Comment: A commenter stated: "To ensure greater availability of consumer and homemaking education programs to both males and females, the regulations must address the problem of scheduling. To implement the intent of the law there must be much greater flexibility in the scheduling of classes. Most secondary schools schedule consumer and homemaking courses during the same periods as courses which traditionally have catered to boys. Both sexes are thereby prevented from participating in the other course or both courses. The regulations should require scheduling which provides authentic options for students."

Response. I would be inappropriate for the Commissioner's regulation to require a particular scheduling of classes within a school or school system. In fact, section 432 of the General Education Provisions Act prohibits the Commissioner from exercising "any direction, supervision, or control over the * * * administration of any educational institution, school or school system * * *." A scheduling of classes, however, which prevents persons of one sex from participating in courses which have additionally catered to persons of the other sex, would be a violation of Title IX. No change is made in the regulation.

§ 104.904 *Curriculum materials which address sex stereotyping.*

Comment. A commenter recommended: "Regulations should state that no programs will be funded under this section unless they show evidence of using or developing curriculum materials that will address sex stereotyping and sex bias in the area they are addressing, e.g., programs for handicapped persons."

Response. Section 432 of the General Education Provisions Act, described in the previous response, also prohibits the Commissioner from exercising any direction, supervision or control over the "textbooks or other printed or published instructional materials by any education institution."

While the Act and regulation require the elimination of sex bias and sex stereotyping in curriculum materials, it would be inappropriate, and possibly illegal under section 432 of GEPA, for the Commissioner to require all schools to use textbooks or other material which specifically address sex stereotyping. On the other hand, schools must use textbooks and other material which are free from sex bias and sex stereotyping. No change is made in the regulation.

§ 104.904(d) *Definition of "outreach."*

Comment. A commenter recommended that "outreach programs" be defined.

Response. Section 150(b)(1)(D) of the Act and § 104.904(d) of the regulation encourage consumer and homemaking outreach programs for "* * * aged, young children, school-age parents, single parents, handicapped persons," and many others. It seems evident that consumer and home-making education programs are encouraged to "reach out" for those not normally in formal school settings. Any further definition might be limiting to the broad scope obviously intended. No change is made in the regulation.

§ 104.905 *Consumer and homemaking—guidance and counseling.*

Comment. A commenter recommended that, since the Act makes many references to guidance and counseling activities, these activities are a permissible use of funds, that is, a permissible ancillary service, in consumer and homemaking education and recommends that "guidance and counseling" be added under § 104.905.

Response. The recommendation is accepted. Guidance and counseling is recognized as an ancillary service. Funds under section 150(b)(1) of the Act for the purpose of § 104.903(c)(4) may be used for guidance and counseling of students. Therefore, a new paragraph (k) has been added at the end of § 104.905 to read:

"(k) guidance and counseling."

§ 104.906 *Federal share.*

Comment. A commenter recommended that paragraphs (a) and (b) of § 104.906 should be reversed so that the major rule as to matching (50–50) which may apply to two-thirds of the funds is stated first, and the secondary rule (90–10 matching) which applies to (at least) one third follows.

Response. The recommendation has been accepted. The two paragraphs are reversed and rewritten accordingly.

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

SUBPART I—PROGRAM IMPROVEMENT

§ 105.5 *Applicability of technical review criteria.*

Comment. Several commenters recommended that it should be made clear that the technical review criteria in Part 105 apply to the review of applications for grants and assistance contracts and not for procurement contracts.

Response. The recommendation is accepted. The proposed technical review criteria in the Commissioner's discretionary programs were not intended to apply to the review of proposals for procurement contracts because procurement contracts are covered by the Federal Procurement Regulations in Title 41, Code of Federal Regulations. Projects for Program Improvement under section 171 of the Act and for the Bilingual Vocational Instructional Materials, Methods, and Techniques Program under section 188 will be supported primarily through procurement contracts. A new § 105.5 is added to reference the Federal Procurement Regulations. Each Request for Proposal (RFP) will specify the criteria which will be used to select the contractor. These criteria will, of course, be consistent with the Act and the regulation. RFP's are announced in the Commerce Business Daily, not the FEDERAL REGISTER.

§ 105.101 *Elimination of sex bias.*

Comment. Several commenters expressed concern that there was not sufficient emphasis on elimination of sex bias and sex stereotyping in §§ 105.101–111. Two commenters suggested giving more points to projects dealing with this concern.

Response. The comments are accepted. In light of the fact that one of the major purposes of the Act is the elimination of sex bias, the weight given to this criterion in § 105.110 (k) has been increased to eight points. In addition, the concerns of sex bias and sex stereotyping will be dealt with through the setting of priorities.

§ 105.101 *Emphasis on contracts.*

Comment. Two commenters expressed concern that the legislative intent of emphasizing contracts over grants needs to be spelled out more clearly.

Response. The regulation now conforms to the Act with regard to this matter. Section 171(a) states that program funds are to be "used primarily for contracts, and in some cases for grants." It is clear that the program is to be administered primarily through procurement contracts rather than through grants. This mode of program administration will apply to all of the activities listed in § 105.104. No change is made in the regulation.

§ 105.102 *National Center for Research in Vocational Education.*

Comment. Some commenters expressed concern that the regulation did not reflect the language of the Act in terms of the regional research centers. The commenters recommended that § 105.102 be rewritten.

Response. The recommendation is accepted. The regulation is changed to read exactly as it is in the Act in regard to the regional research centers.

Comment. A commenter expressed concern that the section on the national center did not mention elimination of sex bias or sex stereotyping as a special concern.

Response. Section 171 of the Act, which is the section concerned with the national center, does not give special mention to sex bias and sex stereotyping. However, since a major emphasis of the Act is on the elimination of sex bias nad sex stereotyping, it will directly affect the administration of programs of the center. No change is made in the regulation.

Comment. A commenter expressed concern that the national center will have an unfair preemptive position in competing for contracts.

Response. Even though the national center will develop planning information for the Commissioner, it will in no way establish the priorities for the project support program to be administered by the Commissioner. The national center will not assist the Commissioner in the development of individual Requests for Proposals (RFPs). If the national center assisted in the preparation of a particular RFP, then the national center would not be eligible to compete for the contract under the RFP. The Commissioner will secure sole source procurements only in extremely limited circumstances and situations. No change is made in the regulation.

Comment. A commenter expressed concern that the national center could preempt all of the research activities to be funded by the Commissioner and none would be done through individually funded projects.

Response. The Commissioner does not plan to administer the program in a manner that would allow the center to preempt research activities. Greater resources will certainly be allocated to funding individual projects than to funding the national center. No change is made in the regulation.

Comment. A commenter expressed concern that the national center would have access to confidential financial information of competitors.

Response. The national center will not have access to confidential information that is protected by the Privacy Act or that is not included under the Freedom of Information Act. Copies of unfunded proposals would not be available to the national center. Copies of funded proposals, less those items protected by the Privacy Act, would be available to the national center if needed by the national center in order to carry out its clearinghouse functions. No change is made in the regulation.

§ 105.104 *Role of States.*

Comment. A commenter expressed concern that States would have too great a role in the administration of the Commissioner's discretionary projects under this section.

Response. The Act does not require that proposals requesting support from the Commissioner under the terms of section 171 be sent through the States. The Commissioner does not plan to request that proposals be sent through the States in the administration of this program. No change is made in the regulation.

§ 105.105 *Eligibility of individuals.*

Comment. Several commenters suggested that individuals not be included as eligible applicants.

Response. Since the Act does not exclude individuals as eligible applicants, no change is made in the regulation.

§ 105.106 *Cost sharing.*

Comment. A commenter objected to the statement in § 105.106 in relation to grants or contracts for program improvement: "No cost sharing is required." The objection was based on the implication, which the short sentence carries, that cost sharing will not be sought or accepted from any applicant. The commenter recommended that the sentence be reworded.

Response. This recommendation is accepted. While cost sharing is not required by the Act, an applicant may indicate it intends to contribute part of the cost of a project. The heading is changed to "cost sharing," and a new sentence is added as follows: "The Commissioner may pay all or part of the cost."

§ 105.110 *Technical review criteria.*

Comment. A commenter suggested that the requirement in § 105.108—that the grant will result in improved teaching techniques,

etc.—should be reflected in the technical review criteria in § 105.110.

Response. Section 105.108 sets forth a requirement of eligibility for grant applications. All applications for grants will be reviewed for compliance with this requirement, and then, only if the application meets this requirement will it be evaluated in accordance with the technical review criteria in § 105.110. No change is made in the regulation.

§ 105.110(k) *Sex bias.*

Comment. Several commenters recommended that points should be given in the review of applications for exemplary and innovative projects which seek to "eliminate," not "minimize" sex bias; in other words that the word "minimize" in paragraph (k) of the technical review criteria be changed to read "eliminate." Another commenter recommended that "sex stereotyping" be added to the criterion on sex bias.

Response. The recommendation is accepted. The sentence is amended to read: "The application provides appropriate plans to eliminate sex bias and sex stereotyping."

Comment. A commenter recommended that a separate criterion be established to give additional weight to applications for projects employing women and minorities in the planning and implementing of the project.

Response. The technical review criteria do not include a specific weighted criterion for proposed projects on which women or minorities will be employed. Section 105.110(h) does, however, include under "Staff Competencies and Experience" the "use of professional staff members from minorities and who are women." The Commissioner will review the applications in relation to the criteria listed in § 105.110, including paragraph (h) on staffing and paragraph (k) on elimination of sex bias. Therefore, no change is made in the regulation.

SUBPART 2—INDIAN TRIBES

§ 105.202(b) *Applicability of the Indian Self-Determination and Education Assistance Act.*

Comment. A commenter asked who determines the extent to which implementation of the regulation concerning the sections of the Indian Self-Determination and Education Assistance Act are relevant and practicable.

Response. The Commissioner of Education in the first instance is responsible for implementing the applicable sections. In the event that questions arise which might affect Bureau of Indian Affairs (BIA) policy, the Commissioner will consult the Bureau of Indian Affairs for guidance. No change is made in the regulation.

§ 105.203 *Definition of Indian tribe.*

Comment. A commenter stated that the definition of an Indian tribe and the section on eligibility were overly restrictive, and therefore, result in an inequity for an Indian organization comprised of Indians who reside in urban areas or who are not members of federally recognized tribes. The commenter further stated that Indian organizations that are not federally recognized are eligible for assistance.

Response. Section 103(a)(1)(B)(iii) of the Act is restrictively written with regard to the parties eligible to contract with the Office of Education. By reference, a tribe or tribal organization must comply with the definition in the Indian Self-Determination and Education Assistance Act, which requires that the tribe or tribal organization be federally recognized. Moreover, to be eligible, the tribe must be eligible to contract with the Secretary of the Interior under the Indian Self-Determination Act of April 16, 1934.

To the extent that other Federal departments or agencies award grants or enter into contracts with Indian tribes or organizations which are not federally recognized, it is because the definitions of Indian tribe and the standards for eligibility vary. For example, the Indian Education Act defines the term Indian to include "any individual who (1) is a member of a tribe, band, or other organized group of Indians, *including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future, by the State in which they reside.*" Thus, given the less inclusive definition in the Act and the Self-Determination Act, the Commissioner has no authority to fund Indian organizations which are not federally recognized. No change is made in the regulation.

§ 105.205 *Eligible applicants.*

Comment. A commenter asked if the contract program for Indian tribes and Indian organizations would preclude Indians, specifically non-reservation Indians, from participating in non-discretionary State administered programs.

Response. The Indian contract program does not preclude members of Indian tribes from participating in State administered vocational education programs. Conference Report 94-1701 (p. 215) states that the Indian contract program is not intended to relieve the States of their obligation to provide vocational education to urban Indians. No change is made in the regulation.

§ 105.211 *Review of applications.*

Comment. A commenter suggested that applications be reviewed by the National Advisory Council on Indian Education.

Response. While some programs administered under the Indian Education Act, Pub. L. 92-318, as amended, require review by the National Advisory Council on Indian Education (NACIE), the Vocational Education Act does not provide statutory authority for the review of applications by the NACIE. However, the NACIE was afforded an opportunity to review and comment upon the Notice of Proposed Rulemaking thereby allowing for input from the Indian community. It is the statutory responsibility of the Commissioner to provide for the review of applications. No change is made in the regulation.

§ 105.211 *Minimum points received by applications to be considered for funding.*

Comment. A commenter asked if applications should receive a minimum of 50 rather than 30 points to be considered for funding.

Response. The minimum number of points an application must receive to be considered for funding remains 30 points. The Commissioner feels that this lower minimum should result in a larger number of applications which may be considered for funding. No change is made in the regulation.

§ 105.211 *Technical review criteria.*

Comment. A commenter suggested that priority in contracting be accorded to vocational education programs which serve Indians in urban areas.

Response. The Act limits the eligibility of applicants to Indian tribal organizations which are eligible to contract under the Indian Self-Determination and Education Assistance Act. Therefore, urban Indian groups are not a priority group in the regulation because the Act is written so that eligibility turns on whether an Indian organization is federally recognized under the Indian Self-Determination and Education Assistance Act. However, urban Indians are eligible to participate in the regular program. No change is made in the regulation.

Comment. A commenter suggested that the regulation give consideration to the special cultural, legal, and socio-economic status of the Indian population. The commenter further suggested that program design and service delivery include: (a) The provision of basic skills training necessary to facilitate vocational training; (b) the provision of supportive services such as child care and transportation; and (c) the payment of stipends so that Indian people can afford to participate in training.

Response. Section 103(a)(1)(B)(iii) provides broad authority for the Indian contract program. Therefore, an applicant may request support for basic vocational skills training, supportive services, and stipend support. The applicant should respond to each of the technical review criteria. No change is made in the regulation.

Comment. A commenter suggested that the need section of an application should be based upon the tribe's economic development plan, including tribal manpower data.

Response. The need section of the application may include information concerning a tribe's economic development plan. However, this should not be the sole or major criterion in that the overall objectives for an economic development plan may vary significantly from the legislative intent of this Act. No change is made in the regulation.

SUBPART 3—TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

LEADERSHIP DEVELOPMENT AWARD PROGRAM

§ 105.302 *Length of award.*

Comment. A commenter, wishing to assure an award period of adequate length to permit effective education for leadership development, recommended that § 105.302(b) be amended to assure a minimum award period of at least 24 months to each approved applicant.

Response. The recommendation is not accepted because the expressed intent of the Congress eliminated the policy which in the past has sometimes limited the duration of leadership development awards to one year. Emphasis on a minimal commitment of 24 months would tend to weaken the effect of the present regulation which is addressed to an award period of 36 months. Furthermore, it is not believed to be in the best interest of the government or of the awardee to weaken in any way the requirement in § 105.307 that the awardee perform satisfactorily and in accordance with the regulation. No change is made in the regulation.

§ 105.303 *Equitable distribution.*

Comment. Several commenters objected to the language in § 105.303 that "the Commissioner will apportion leadership development awards equitably among the States * * *" for the reason that the word "apportion" gives the impression that the awards will be apportioned, by formula, in advance of receipt of applications. They recommended that the sentence be reworded.

Response. This recommendation has been accepted. Although the proposed regulation follows section 172(b)(4) of the Act closely, the language of § 105.303 of the regulation is changed to make clear that there will not be a formula allocation of awards to the States.

§ 105.304 *Post-doctoral study.*

Comment. A commenter recommended specific prohibition of awards to post-doctoral students.

Response. It is possible that a person with the doctoral degree in engineering, or any other field, might seek to become a professional leader in vocational education. Although the Act and its legislative history do

not address this point, it cannot safely be assumed that the Congress meant to preclude giving an award to such a person. No change is made in the regulation.

§ 105.304 *Role of research.*

Comment. A commenter recommended deletion of the phrase "or research" from paragraph (b), which would then read, "In order to receive a leadership development award the person selected shall enroll for full-time graduate study in a vocational education leadership * * *"

Response. The recommendation is accepted and the regulation is changed accordingly. Graduate study includes all of the employment categories suggested in the Act (e.g., administrators, supervisors, teacher educators, researchers, guidance and counseling personnel). Nothing in the Act warrants establishing the elements of study and research as mutually exclusive alternatives.

§ 105.305 *Graduate-level study.*

Comment. A commenter pointed out that although in H.R. Report No. 94–1085, p. 54, the Congress advises the Commissioner to solicit recommendations "from graduate schools offering these programs," the regulation reads "from representatives of vocational education programs in institutions of higher education." The commenter notes that the programs might or might not be at the post-baccalaureate or doctoral level.

Response. The point is well taken. However, the Commissioner prefers not to make the suggested change in order to permit and encourage solicitation of recommendations from all levels of instruction, including, the doctoral level. No change is made in the regulation.

§ 105.305 *Role of the State board.*

Comment. A commenter finds paragraph § 105.305(b) to be "extra-statutory and misrepresentative of H.R. Report No. 94–1085" in that it gives excessive authority to the State board.

Response. The Commissioner was keenly aware of the criticism expressed in H.R. Report No. 94–1085 and it took fully into account in drafting the regulation. In light of the legislative history, the regulation is designed to obtain advice from the State board and to use the board as a conduit for securing advice from the "other agencies." On the other hand, the total role of the State board has been changed because the applications are sent directly to the Commissioner (rather than through the State boards, as in previous years) and will be reviewed independently by the Commissioner's designees in the Office of Education. For these reasons, the recommendation to revise the regulation is not accepted.

§ 105.305 *Advice from others.*

Comment. Several commenters objected to having the State board forward to the Commissioner only a summary of its own advice and that of the "other agencies" and "representatives," on the grounds that the authority to prepare such a summary increases unduly the role of the State board.

Response. In order to clarify the role of the State board, the regulation is revised to require the State board to forward the complete statement of advice from each such agency and representative.

§ 105.307 *Part-time employment.*

Comment. A commenter wanted the part-time employment referred to in § 105.307(a)(3) to be limited to 50 percent of the awardee's time, and wanted a regulation to clarify how approval for part-time employment is obtained.

Response. Experience with the leadership development award program in previous years shows that there are many patterns of part-time employment in terms of hours per day or week and number of weeks or months. It has not seemed feasible to attempt to foresee them all and regulate accordingly. Therefore, the matter will be handled as in the past, by individual request from each participating institution to the Commissioner and review of each request on its merits. No change is made in the regulation.

§ 105.309 *Application review criteria.*

Comment. Many persons took exception to the proposed criteria for judging applications. One wanted the weights of the criteria changed to favor younger, less experienced applicants. Several commenters wanted much more weight given to evidence of intellectual ability as shown by academic achievement. One pointed out the similarity of criteria (b) *Leadership potential and criterion,* and (e) *Human relations skills,* which would tend to favor certain candidates. Several wanted the Commissioner to set minimum levels which must be attained for each criterion. Several perceived that the proposed criteria would result in discrimination against women and racial minorities, and would favor older persons with "stereotyped" accomplishments. One commenter recommended that in paragraph (g) of § 105.309 special consideration be given to women. One commenter urged elimination of the entire section on review criteria.

Response. Since the Commissioner must review all applications and must, of necessity, use criteria for that purpose, it is the policy of the Office of Education to publish the criteria in advance.

Most of the other comments and recommendations relate to the weight assigned to each of the criteria. In view of the comments, a reconsideration of the weighting has resulted in several revisions set forth in the final regulation.

The weight given to evidence of academic ability has been increased, and the weight given to communication skills has been reduced. The criterion (e) *Human relations skills* has been eliminated as such and included under criterion (b) *Leadership potential* as skill in interpersonal relations.

Neither the Act nor its legislative history provides any support for weighting of the criteria to favor either younger or older persons. Consequently, the recommendations in this regard were not accepted.

§105.309 *Application review criteria—academic ability.*

Comment. A commenter recommended changing criterion (a) *Academic ability* to require the applicant to submit transcripts of grades earned in college, including graduate courses, instead of leaving this submission to the option of the applicant. The same commenter suggested that item (3) of the same criterion be deleted, on the grounds that skill aptitude tests are not given at the graduate study level.

Response. The recommendation to require submission of transcripts is accepted and the regulation changed accordingly. A record of the applicant's grades is indispensable for proper review of his or her qualifications. The second recommendation, to delete the item referring to skill aptitude test, is not accepted, because submission of such information is optional, and because the applicant's scores on such tests, irrespective of when the tests were taken, is evidence of the applicant's abilities.

§ 105.310 *Number of participating institutions.*

Comment. A commenter recommended that the number of approved institutions be limited to twenty. The commenter saw this as a means of helping to assure that only institutions with highest quality doctoral level programs would be assigned leadership development awardees. The recommendation was perceived also as a way to assure a "critical mass" of awardees at each participating institution. A commenter with the same concern wanted the number of awardees per institution to be no fewer than ten and no more than twenty.

Response. While these concerns are shared by the Commissioner, § 105.310 was not made more specific because of the need to accommodate possible fluctuations in the level of funding allocated to this program. It is believed that, by judicious use of the right to redistribute award recipients among approved institutions, the effect desired by both commenters will be achieved, whatever the level of funding of the program. No change is made in the regulation.

§ 105.311 *Comprehensive graduate programs.*

Comment. A commenter recommended that a participating institution should be required to offer at least four doctoral programs in supporting technical disciplines of agriculture, business administration, engineering, health sciences, and home economics, plus doctoral level programs in sociology, psychology, computer science, philosophy, and an area of "communications." The same commenter recommended that the regulation require a much broader, more comprehensive graduate program of vocational education than is now stipulated.

Response. The recommendation is not accepted. Despite the desirability of the recommended program, to require such a program would exclude from participation in the leadership development program many of the institutions which have already demonstrated their capabilities for training leaders. In setting the standards presently required in the proposed regulation, the Commissioner has in mind first the interest of the student awardees, who will legitimately have preferences among institutions, in respect to distance from their present homes, etc. The Commissioner's decision to make no change in the proposed requirements for eligibility of institutions is based also on the grounds that more restrictive criteria for eligibility would tend to enmesh the leadership development program unduly into the specific doctoral requirements of traditional technical fields. No change is made in the regulation.

VOCATIONAL EDUCATION CERTIFICATION FELLOWSHIP PROGRAM

§ 105.431 *Source of funding.*

Comment. A commenter advised against having the certification fellowship program "compete for funds" with the leadership development program, and recommended that the former program be supported with funds provided to the States through Section 135 (§ 104.771 of the regulation). The commenter reasoned that the need for leadership development awards would so lessen the "critical mass" of awardees as to lose the benefits of group interaction.

Response. Funds for both the State-administered Vocational Education Personnel Training (§§ 104.771–104.776) and the Commissioner's two discretionary programs, *Leadership Development* (§§ 105.301–105.312) and *Certification Fellowships* (§§ 105.431–105.443), are authorized by Section 103 of

the Act. Section 103 requires that a specified portion of the appropriated funds be reserved for use by the Commissioner and that the balance be allotted to the States. The Commissioner's portion and the State's portion cannot be modified without a Congressional amendment. Therefore, funds available for the State-administered part under Section 135 cannot be used to support the Commissioner's Vocational Education Certification Fellowship Program. No change is made in the regulation.

§ 105.431 *Teacher or educators.*

Comment. Two commenters recommended that in § 105.431 the term "vocational educator" should be changed each time it occurs to "vocational teacher."

Response. Although there is merit in the suggestion for use of the more widely used term, teacher, the recommendation is not accepted. The Congress used "educator" in the statute, and without compelling reasons to the contrary, the Commissioner prefers that the regulation use the terminology of the statute. No change is made in the regulation.

§ 105.431 *Emphasis on shortage of teachers.*

Comment. A commenter recommended that § 105.431(a) be changed to read "* * * if those teachers have skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained * * *." The rationale for adding the clause *for which there is a need for vocational teachers* is that there are some fields of vocational education which have a surplus of teachers and for which no additional ones should be trained. The commenter wanted the same change in § 105.432 (a) (1), for the same reason.

Response. The recommendation is accepted. Although the statute does not require that there be a need for vocational teachers in reference to applicants for fellowships who are certified teachers, it does contain this requirement with respect to applicants who are employed in industry. That both classes of applicants should be treated alike in this respect is supported at two points in the statute: first, section 172(c) (1) states that the fellowship program exists "in order to meet the need to provide adequate numbers of teachers * * *" and thereby establishes the overall criterion of need; and second, section 172(c) (7) requires the Commissioner to determine, annually, the areas of teaching where there is need of additional teachers and to award the fellowships, preferentially, for study in those areas. The amendments will help to assure that the limited funds available to the fellowship program are used where they are most needed.

§ 105.432 *Categories of fellows.*

Comment. A commenter advised that in paragraph (a) of § 105.432 the word "including" be changed to "other than" on the grounds that if a person has already been certified to teach vocational education, there is no need for additional training.

Response. There is nothing in the statute or its history to suggest that a person who has been a teacher of vocational education in a field where there is no longer employment could not apply for a certification fellowship in order to be able to work in a field where there is need for teachers. Therefore, no change is made in the regulation.

Comment. Another commenter urged that the parenthetical expression in paragraph (a) of § 105.442 be changed to read "(including other thirteenth and fourteenth year programs)." The rationale was that there are hundreds of educational programs at the thirteenth and fourteenth year levels which are not in community or junior colleges and where there are teachers in a variety of fields who should be eligible for consideration as applicants for certification fellowships.

Response. The recommendation is accepted. It seems reasonable to include as potential beneficiaries teachers in all programs at the thirteenth and fourteenth grade levels, rather than only those designated as junior or community colleges. The recommendation is particularly valid because many of the "other" programs are in technical and vocational education. The regulation is changed accordingly.

§ 105.434 *Role of the State boards.*

Comment. A commenter feared that State boards might be inclined to favor certified teachers, and recommended therefore that a more objective procedure be adopted for reviewing applications.

Response. All applications will be objectively reviewed by the Commissioner, who customarily uses teams of persons drawn from both inside and outside the Office of Education for this purpose. The review by the State board (with advice from the State advisory council and other agencies and representative individuals) will provide valuable additional input to the Commissioner's review of the applications. No change is made in the regulation.

§ 105.434 *Advice from others.*

The recommendation regarding § 105.305 (b), that the State board should transmit to the Commissioner the full statements of advice about applications rather than a mere summary of that advice, was found to be equally applicable to the certification fellowships program. Accordingly, § 105.434(b) is amended to correspond to the changes made in § 105.305(b).

§ 105.440 *Eligibility of institutions.*

Comment. A commenter asked generally about the difference in stringency of criteria for eligibility of institutions to participate in the Leadership Development Program and the Certification Fellowships Program.

Response. The requirements for institutional participation in the Leadership Development Program (§ 105.311) are for work at the level of graduate study and are therefore much more demanding than the requirements for the baccalaureate level fellowships program.

§ 105.441 *Priority to areas of need.*

Comment. A commenter noted the omission in the regulation of the language in Section 172(c) (7) which requires the Commissioner to give priority in the awarding of fellowships to those which are focused on the designated areas of need for vocational education teachers. The commenter requested that the omission be corrected.

Response. In view of the omission, the recommendation is accepted. Section 105.441(a) is amended by the addition of this language: "and will, to the maximum degree possible, award fellowships under § 105.432 to applicants seeking to become teachers in the areas identified."

§ 105.442 *Emphasis on areas of need.*

Comment. A commenter wanted § 105.442 (a) (2) amended to recognize the emphasis on areas or fields of vocational education where additional vocational educators are needed (as required by § 105.441). The amended text would read, "Past or current skills and experiences in the vocational field(s) in which there is a need for additional educators and * * *"

The same commenter requested the addition of an item (3) to § 105.442: "inability to find employment in his or her field of previous certification." The rationale was that Section 172(c) (1) includes that qualification, which must therefore have been omitted by inadvertence.

Response. Both recommendations are accepted. The change in § 105.442(a) (2) serves to emphasize the requirement of § 105.441 of the regulation, and a new subsection (3) under § 105.442(a) has been added which reads "inability to find employment in his or her field of previous certification."

§ 105.443 *Emphasis on the handicapped.*

Comment. A commenter recommended that the application review criterion related to national need (paragraph (e) of § 105.443) be strengthened by adding special education for the handicapped to paragraph (e) of § 105.440 as a part of the undergraduate program of vocational education.

Response. The Act requires that the undergraduate program of vocational education have adequate support services and disciplines, but does not go beyond suggesting which support services and disciplines shall be included. Since special education for the handicapped is a critical program element, the recommendation is accepted and § 105.-440(e) is changed accordingly.

§ 105.443 *Additional review criteria.*

Comment. A commenter recommended that a fourth category, "women," be added to the list of groups meriting special attention under paragraph (e) of § 105.443, *National need.*

Response. Because of the strong emphasis in the Act on eliminating sex bias and sex stereotyping, the recommendation is accepted. The initial sentence of the paragraph is modified to read "* * * with particular reference to the elimination of sex stereotyping *and* to working with the following populations." Further support for this change is found in § 105.441, which provides that the Commissioner will identify areas of teaching in vocational education where there are or will be shortages of personnel. Also a reasonable assumption may be made that there is a shortage of women teachers and of persons capable of teaching women in many areas of vocational education.

Comment. A commenter asks that a fourth category be added to paragraph (f) of § 105.443 to favor applicants who desire to be trained in a "nontraditional" teaching field.

Respose. The recommendation is accepted. H.R. Report No. 94–1085, p. 55, supports this non-traditional emphasis which may be interpreted to mean women (or men) teaching in fields traditionally reserved to the other sex, and also to mean any person teaching in a new field or a field not commonly taught. The new fourth item has been added to § 105.443(f) which reads as follows: "(4) The applicant's intention to become certified in a vocational field not traditionally open to persons of the applicant's sex, or to become certified in a new field or one not commonly taught."

§ 105.443 *Weighting of review criteria.*

Comment. Two commenters urged that the weight assigned to criterion (a) *Academic ability* be increased to 30 points and the weights for criterion (b) *Vocational skills* be increased to 40 points, with corresponding reductions in the weights assigned to other criteria. The rationale was that criteria (a) and (b) are by far the most important.

Response. Due to the overall importance of criteria (a) and (b) the regulation is revised to increase criterion (a) to 25 points and criterion (b) to 35 points, and criterion

(c) *Communication skills* is reduced to 15 points.

SUBPART 4—EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATING OF VOCATIONAL EDUCATION FACILITIES

§ 105.502 *Eligible applicants for emergency assistance for remodeling.*

Comment. Commenters indicated that the legislative history does not sustain the argument made on page 18549 of the preamble to the NPRM that the bill, as enacted into law, was expanded to include all LEAs as eligible applicants; to the contrary, they maintain that only LEAs "in urban and rural areas" are eligible and recommend that § 105.502 be amended accordingly.

Response. The recommendation is accepted. Congressional intent indicates that only urban and rural LEAs are eligible under this program, and that suburban LEAs are not eligible. Section 105.502 is amended to limit eligibility to LEAs in urban and rural areas and definitions on "urban" and "rural" have been added. Since these definitions apply only to the emergency facilities program, they are not repeated among the definitions of general applicability in Appendix A.

§ 105.504 *Functions of the State board in relation to applications for emergency assistance for remodeling.*

Comment. A commenter asked what the State board must do in relation to applications by LEAs for emergency assistance for remodeling and renovation. The commenter questioned whether the State board makes the decision on funding in the State and suggested that the State board's functions be specified in the regulation.

Response. Section 193(a) of the Act requires that the LEA send its application to the Commissioner through the State board. This requirement is repeated in § 105.504 of the regulation. Section 193(a) of the Act requires that the application contain "such other information as the State board determines to be appropriate." This requirement is repeated in § 105.503(g) of the regulation. Thus, the Act and the regulation require the application to be sent to the State board and require that when the application is sent on by the State board to the Commissioner, it contain whatever additional information the State board considers necessary. The State board should review the application and ask the applicant to add to its application any information which the Commissioner will need for decision. The decisions on awards must be made by the Commissioner. Since § 105.503(g) follows the Act and gives the State board wide leeway in requesting any additional information it considers appropriate, no change is made in the regulation.

§ 105.505 *Emergency assistance for remodeling.*

Comment. A commenter asked what is meant by "emergency assistance for remodeling" and whether the program is limited to assistance after a natural disaster or to assistance for renovation where local tax efforts have been insufficient.

Response. The program of "emergency assistance" is not limited to assistance for remodeling after a natural disaster. The program is a special four-year program of assistance for remodeling in urban and rural areas which was added after Congress heard testimony of "the inadequacy of facilities in urban and rural areas." (Senate Report No. 94–882, p. 88.) As to assistance where local tax efforts have been insufficient, section 193(b)(1) of the Act stresses as the first criterion the need for Federal assistance. Applications will, under § 105.505, be ranked according to the relative need for assistance as determined by the criteria in § 105.505(b). No change is made in the regulation.

§ 105.505(b)(8) *Criteria for award of emergency assistance for remodeling.*

Comment. Commenters suggested that criterion (8) in § 105.505(b) for review of applications submitted to the Commissioner for emergency assistance for remodeling should be deleted; five points should not be given for evidence that the proposed facilities "complied with the law and did not result in sex discrimination or bias against the handicapped."

Response. The recommendation is accepted. Criterion (8) is deleted and the five points are added to criterion (1), giving a maximum of 17 points for evidence of the age or obsolescence of the facilities for which Federal assistance is sought. Since it is a requirement of law that educational facilities not discriminate on the basis of sex or discriminate against the handicapped, it is not reasonable to give five points for evidence in the application that these requirements of law have been met. For that reason, criterion (8) is deleted. Applications will be reviewed, of course, to make sure that the proposed remodeled facilities do not result in discrimination on the basis of sex or handicap.

SUBPART 5—BILINGUAL VOCATIONAL EDUCATION

§ 105.604(a) *Submission of applications.*

Comment. A commenter suggested that in order not to delay the submission of applications they should be submitted simultaneously to the Office of Education and to the State Board for Vocational Education, and that the State board be given 30 days following the closing date for applications to submit its comments to the Office of Education.

Response. The comment is accepted. The procedure set forth in § 105.604(a) is for the applicant to submit a copy of the application to the State board for comment. Since a copy would be submitted to the board, it was implicit in this regulation that the original application be submitted directly to the Commissioner. The regulation reflects this procedure. In addition, the regulation is amended to require that the State board submit its comments to the Commissioner within 30 days following the closing date for applications.

§ 105.611 *Bilingual Vocational Instructor Training Program.*

Comment. A commenter recommended that the Commissioner make an effort to simplify the various teacher training programs within the Vocational Education Act and also to develop an effective means of coordinating these programs with similar teacher training programs administered by the Office of Education. This commenter contended that, without simplification and coordination, American education will be confronted with overlapping and ineffective management.

Response. The Vocational Education Act contains three separate authorities for teacher training programs.

The Vocational Education Personnel Training set forth in § 104.771 is a State-administered program. The Bilingual Vocational Instructor Training Program in § 105.611 addresses a specific need to improve the overall Bilingual Vocational Training Program. The Vocational Education Leadership Development Program in § 105.301 allows experienced vocational educators to spend full time in advanced study of vocational education. In view of the fact that one program lies exclusively within the domain of the State, and the other two discretionary programs address separate objectives in—as a general rule—separate institutions, it is not feasible to consolidate or simplify the three programs. Therefore, no change is made in the regulation.

APPENDIX A

DEFINITION

Comment. One commenter strongly supported a comment recorded in response to the NOI that the definition of vocational education should be broadened to include guidance elements and thus reduce the need for funding guidance as a supportive service.

Response. While there is merit in the comment, the definition of vocational education in the Act (Sec. 195(1)) does not include vocational guidance and counseling. No change is made in the regulation.

APPENDIX—"COOPERATIVE EDUCATION."

Comment. A commenter recommended expanding the definition of "cooperative education" to add two requirements that the program:

(1) "employs and compensates student-learners in conformity with Federal, State, and local laws and regulations in a manner not resulting in exploitation of the student-learner for private gain, and

(2) "is conducted in accordance with written training agreements between local educational agencies and employers."

Response. While the recommendation raises two very important points, the definition of "cooperative education" comes directly from section 195(18) of the Act and is not changed. The recommendations are added as requirements in the Cooperative Vocational Education Programs in § 104.531 as new paragraphs (c) and (d).

APPENDIX—"CURRICULUM MATERIALS."

Comment. A commenter suggested as an alternative definition of "curriculum materials" the following:

"Curriculum materials" means instructional resources both print and non-print, used in any teaching and learning process designed to prepare persons for employment or to upgrade the competencies of persons previously or presently employed in any occupational field."

Response. While the proposed definition has much merit, particularly in not limiting curriculum materials to printed materials, the definition in the Appendix comes from section 195(19) of the Act with only slight modification. No change is made in the regulation.

APPENDIX—"FINANCIAL ABILITY."

Comment. A commenter recommended that a definition of "financial ability" be added, to define the term as used in section 106(a)(5)(B)(i) of the Act.

Response. The recommendation is accepted. A definition of "financial ability," taken from the House Report (H. Rept. No. 94–1085, p. 34) is added.

APPENDIX—"HANDICAPPED."

Comment. Many commenters objected to that part of the definition of handicapped which included "learning disabilities to the extent the disability is a health impairment," pointing out that most learning disabilities (LD) are not health-related problems at all, but are learning-related problems (perceptual handicaps, brain injury, dyslexia or developmental ophasis). Commenters recommended that the definition in the Appendix to the Vocational Education Act should conform to the definition in the Education of the Handicapped Act, Pub. L. 94–142 and the regulations thereunder.

Response. The Technical Amendments (Pub. L. 95–40) conformed the definition of "handicapped" in the Vocational Educa-

tion Act to that in the Education of the Handicapped Act. The amended definition includes "specific learning disabilities" as a handicapping condition. The definition of "specific learning disabilities" will be consistent with the definition finally promulgated by the Commissioner under the Education of the Handicapped Act. It will be necessary to look to the regulations under the Education of the Handicapped Act as published in final form for the definition of "specific learning disabilities."

APPENDIX—"HIGH SCHOOL."

Comment.—A commenter recommended a definition of "high school" be added to replace that of "secondary programs."

Response. The recommendation has been accepted by adding the definition of "high school program" and revising the definition of "secondary program" as follows:

"High school program" means vocational education for persons in grades 9 through 12.

"Secondary program" means vocational education for persons in secondary grades as defined by State law.

APPENDIX—"INSTRUCTIONAL TECHNOLOGY."

Comment. A commenter objected that the definitions do not include a definition of "instructional technology" since instructional technology "is playing an ever increasing role in the armed services, industry, government, medicine and the whole of education." No proposed definition was included in the comment.

Response. While there are many terms which could be defined, the Appendix contains only definitions of terms which must be defined for interpretation of the Act or the regulation. A definition of "instructional technology" is not necessary for interpretation of the Act or regulation, and for that reason, is not added to the Appendix. No change is made in the regulation.

APPENDIX—"LIMITED ENGLISH-SPEAKING ABILITY."

Comment. Several commenters have recommended that a definition of "limited English-speaking ability" be added, to define in the Appendix the term as it is used in §§ 104.303(b) (2) and 104.317(a) (2) as to the 20 percent set-aside part of which is used for persons of limited English-speaking ability.

Response. The recommendation is accepted. A definition of "limited English-speaking ability" (LESA) has been added in its alphabetical order in the Appendix. The definition is that used in section 703(a) (1) of the Bilingual Education Act, 20 U.S.C. 880b–1. This definition will explain the term as used in §§ 104.303(b) (2), 104.313(a) (2) and 105.601.

APPENDIX—"POSTSECONDARY PROGRAMS"—CERTIFICATE OF COMPLETION

Comment. Many commenters suggested adding to the definition of "postsecondary programs" those programs leading to a certificate of completion of hours of study or certificate of completion of a series of courses.

Response. The House Report (H. Rept. No. 95–1085, p. 48) indicates that Congress did not intend that persons working toward certificates of completion should be considered under the definition of "postsecondary programs." For that reason the suggestion was not accepted. No change is made in the regulation.

APPENDIX—"SECONDARY PROGRAM"

Comment. A commenter urged that the word "usually" be dropped from the definition of "secondary" and that the grades be specified as "beginning with grade 9 and ending with grade 12."

Response. The definition of "secondary program" has been rewritten to leave to determination by State law the span of grades considered as "secondary." A definition of "high school" has also been added to the Appendix.

APPENDIX—"VOCATIONAL EDUCATION"—GUIDANCE

Comment. A commenter strongly urged that the definition of vocational education should be broadened to include guidance elements and thus reduce the need for funding guidance as a supportive service.

Response. While there is merit in the comment, the definition of vocational education in the Act (Sec. 195(1)) does not include vocational guidance and counseling. No change is made in the regulation.

APPENDIX—"VOCATIONAL INSTRUCTION"

Comment. A commenter objected that the definition of "vocational instruction" does not include planning, assessment, and evaluation.

Response. Planning, assessment, and evaluation are not elements of the statutory definition of "vocational instruction." For that reason they should not be included in the definition of "vocational instruction" in § 104.512 or in the Appendix. No change is made in the regulation.

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